

# Protection of IDPs: an ICRC view

by Alain Aeschlimann

*IDPs are of primary concern to the International Committee of the Red Cross (ICRC). Ensuring their protection lies at the core of its mandate, operational concerns and priorities.*

Such a statement has to be understood in the broader frame of ICRC's endeavours to act in favour of all war victims and its wariness towards approaches by sectors or categories of victims. It should be noted that the ICRC's mission – defined in the 1949 Geneva Conventions and their 1977 Additional Protocols and in the 1986 Statutes of the International Movement of the Red Cross and Red Crescent – is “to protect the lives and dignity of victims of war and internal violence and to provide them with assistance” and “to prevent human suffering by promoting and strengthening humanitarian law and universal humanitarian principles”. Internal displacement is mainly due to armed conflict, in particular to violations of international humanitarian law, and other situations of violence. Consequently, as part of the civilian population affected by such events, IDPs are entitled to receive ICRC support.

Due to the severity of their needs and their often-greater vulnerability, IDPs may in many contexts be the object of more attention from the ICRC than the resident population. This is in conformity with the principle of impartiality, which requires that the ICRC act on the basis of needs and vulnerability. This has led the ICRC to increasingly intervene in order to prevent displacement and in favour of the already vulnerable displaced population.

The ICRC is bound by its mandate to eventually act in favour of all the victims of armed conflict and violence, and cannot therefore *a priori* delegate or forego some or all of its activities in favour of IDPs. Being essentially a situation-driven organisation, the ICRC deploys its resources based on its judgement of a given situation and after a thorough evaluation of the resulting humanitarian consequences. We are careful not to create positive discrimination or to

advantage certain categories of beneficiaries in a manner detrimental to other victims. This may lead the ICRC to assist the host populations in parallel with its activities undertaken for IDPs.

Our interventions are characterised by flexibility and concern to achieve complementarities with the efforts of other organisations. In some contexts this may lead the ICRC to focus on populations remaining in remote areas while other organisations concentrate on IDPs in camps. A case in point is Darfur where massive intervention and a proliferation of agencies and NGOs working inside IDP camps – most of which are close to provincial capitals – have not only stabilised the situation but have in some aspects improved the living conditions experienced by IDPs before their flight. Consequently, the ever-increasing level of humanitarian intervention now acts as a pull factor or at least a deterrent to return. This has prompted the ICRC to focus on the rural population that did not flee, as well as on those IDPs who fled to other villages, for in many they are worse off and more vulnerable than they were prior to large-scale displacement.

The ICRC considers it essential to adopt a holistic and comprehensive approach. Assistance and protection are interlocking aspects of our operations and simultaneously provided since need cannot be strictly divided into categories or sectors. While we share several characteristics with other humanitarian actors, what gives our interventions added value and makes us specific is our:

- strict respect of the principles of neutrality and independence: our status as a neutral intermediary is particularly relevant in acute contexts
- field presence and proximity to affected persons
- priority to establish contacts with

all authorities, warring parties and armed groups and to engage them all in confidential dialogues on issues of humanitarian concern

- mid to long-term commitment in a given context
- long-standing experience and emphasis on professionalism
- ability to work in emergencies and to deploy rapidly.

## General protection considerations

The prime responsibility to provide protection and solutions falls unequivocally upon the government, authorities and others who control a given territory. Having said this, the increased global awareness that has led NGOs and other humanitarian organisations to consider protection in favour of IDPs is a significant and welcome evolution in humanitarian practice. However, it is essential to remember that protection efforts can have no meaningful impact without a corresponding political will from the concerned authorities, those who carry arms and, very often, the international community. Humanitarian endeavours mainly aimed at making power-holders shoulder their responsibilities can never be a substitute for political action. We must resist the trend to turn everything into ‘protection’ and to believe that the mere despatch of more protection officers or ICRC delegates will provide a panacea. What is the determining factor is the existence of a protection-friendly environment created by the combined efforts and resolve of all the actors concerned, each one according to its role and specificities.

In its broader sense, the concept of protection encompasses all activities aimed at ensuring the full respect of the rights of the individual and the obligations of the authorities/non-state actors in accordance with the letter and the spirit of the relevant bodies of law. For the ICRC, protection, in its strictest sense, encompasses those activities aimed at preventing and/or putting an end to the violations of the rights of individuals and the obligations of the authori-



IDP camp near  
Nepalgunj,  
Nepal.

ties/belligerents in accordance with the letter and the spirit of IHL and other fundamental rules which protect persons in situations of violence. These activities seek to affect the causes of abuses, not their consequences.

Based on its knowledge of the situation and the collection of information (in particular through interviews with witnesses, detainees or other victims of abuse), the ICRC defines activities according to a strategy built on a combination of appropriate modes of action (persuasion, mobilisation, denunciation, support to structures and direct services). This enables it to act at the pertinent level of intervention (responsive action, remedial action and environment building). For the ICRC the central protection activity is via confidential bilateral representations to the authorities/bearers of arms. If these confidential approaches do not work the ICRC is always able to make discreet interventions to third parties and, in exceptional cases, to resort to public representations or appeals. We also notably offer advice on improving national laws, disseminate knowledge of IHL, organise mines awareness, register IDPs, trace those who have disappeared, occasionally evacuate persons, carry out assistance programmes tailored to reduce exposure to risk and liaise with and between warring parties on specific humanitarian issues.

Any protection action is based on the rule of law. Reference to legal obligations and knowledge of the applicable normative framework are key. IDPs – although not expressly referred to – are covered by various bodies of law, including, most notably, IHL, human rights law and na-

tional laws. The most important needs are addressed and there are no significant gaps in the legal protection of IDPs. As always, the challenge lies in ensuring respect of the existing rules. The UN Guiding Prin-

ciples on Internal Displacement are a very useful and important tool as they include elements of IHL, human rights and refugee law covering all the phases of internal displacement. However, as they are part of soft law, they are not legally binding. Particularly in situations of armed conflict, it seems essential to us to first invoke the peremptory rules, i.e. the obligations of IHL that are binding both on state and non-state players. There is a concern that increasing recourse exclusively to not binding principles which are specifically designed to deal with internally displaced persons could ultimately narrow the scope of the protection granted by IHL to the entire civilian population.

In many respects, the protection of IDPs does not differ from the protection of the entire civilian population. In both cases we need to constantly put the interest of affected persons at the forefront of our actions and ensure that activities do not harm the eventual beneficiaries. It is also necessary to determine that a sufficient threshold of security exists for both the persons affected and humanitarian staff. In many parts of the world security constraints are increasing and are hampering access and effective protection activities. This is especially the case where criminal interests are involved or protagonists reject, or conversely try to instrumentalise, any humanitarian presence or IHL.

### Constraints and coordination challenges

Operational confusion is engendered by semantic confusion. Various stakeholders use the 'IDP' label

to denote categories of persons confronted with different situations (persons recently displaced as the result of a conflict; persons displaced, or resettled by force; displaced persons who have become integrated into the suburbs of a city; economic migrants; persons displaced as the result of a natural disaster, etc). The definition of IDPs in the Guiding Principles is not readily applicable for operational purposes, as it covers a group that is so wide and whose needs are so varied.

There is a danger that the protection focus on IDPs could be detrimental to the rest of the population and reduce the protection to which the civilian population is entitled. The risk of tensions between host populations and stigmatised displaced populations, when the plight of the former is not sufficiently taken into consideration, is often insufficiently considered.

A further challenge is to adequately react in the phase immediately following displacement, when IDPs are probably at their most vulnerable and when there is prevalence of sexual violence, increased risks of separation of families and the appearance of numerous cases of separated/non accompanied children with specific child protection issues. We must become more aware of the use of displacement as a tool or even a method of combat by warring parties. Protection must be based on recognition of any ongoing causes of displacement, consideration about the existence of minimum security conditions for viable return, and respect for the right of IDPs to freely choose whether to return, remain where they are or be resettled elsewhere.

The increasing number of organisations involved in IDP issues has pros and cons. This proliferation is raising the profile of IDPs and allowing them to benefit from the specific fields of expertise of different humanitarian organisations. The potential negative effects for the rest of the civilian population have been set out above. A coordinated approach to a given crisis is the only way to achieve coherent and worthwhile results. The ICRC has repeatedly stressed its willingness to coordinate with other organisations while insisting on the fact that

the need to preserve our neutrality and independence prevents us from being formally coordinated by other agencies or bound in advance to a specific sectorial approach. It is important that cooperation with other organisations be carried out in a manner which does not jeopardise the perception of the ICRC as a neutral, impartial and independent organisation, exclusively driven by humanitarian concerns.

As a standing invitee, the ICRC participates in the work of the Senior Network on Internal Displacement and various IASC meetings. The ICRC actively participated in the various consultations on the IDP collaborative approach as well as the recently proposed sectorial approach within the UN system. The extent but also

the limitations of our interaction within these frameworks were explained. The ICRC is genuinely committed to develop operational complementarity in order to advance the best interests of those affected by conflict and other situations of violence. This requires sustained dialogue with key partners, both at the bilateral and multilateral levels, including exchange of information on what each other plans to do.

At field level the ICRC tries to concentrate its participation to coordination meetings which are really bringing added value to work on the ground without merely adding a bureaucratic layer. Within the limits imposed by confidentiality concerning specific violations, the ICRC is taking part in a selected way in the

protection coordination meetings recently organised in some countries. It first analysed if such participation might jeopardise the confidence that the authorities and non-state actors have in the ICRC.

Let us hope that the current discussion regarding IDPs protection issues as well as international and inter-agency cooperation and coordination will finally result in a concrete improvement of protection!

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