

Responsibility to Protect: lessons from South Kivu

by Jaya Murthy

Protection is one of the components of the new UN-led cluster approach in emergency environments.¹ Can the protection cluster mobilise the international community to protect civilians in areas where states are either unwilling or unable to do so? A pilot project in the Democratic Republic of Congo (DRC) may offer guidance.

In 2001 the International Commission for Intervention and State Sovereignty (ICISS) published its watershed report *The Responsibility to Protect*.² The Commission was responding to former UN Secretary-General Kofi Annan's challenge to the international community to chart a more consistent and predictable course of action when responding to humanitarian crises, particularly when humanitarian principles and notions of state sovereignty are at odds. ICISS developed a global framework for the international community to use in determining its actions against states – including military deployment – whose civilian populations are suffering grave harm.

The Commission's single most important contribution was the reconceptualisation of the core concept of the international community's 'right to intervene' on humanitarian grounds as, rather, 'the responsibility to protect' civilian populations at risk. This change has ultimately shifted the focus from those exercising state power to the actual victims of conflict.³ The Responsibility to Protect (R2P) notion has gained widespread international legitimacy and is becoming an

acknowledged international norm. The latest UN Security Council resolutions (1738 and 1674, adopted in 2006) to protect civilians in conflict plainly note the international community's responsibility to protect. UN Peacekeeping missions are increasingly being mandated with a Chapter 7 mandate⁴ to aggressively protect civilians in conflict. In statements to the Security Council the former UN Humanitarian Coordinator Jan Egeland called for more predictability in meeting international R2P obligations towards civilians in need. At the 2005 World Summit all governments clearly and unambiguously accepted the collective obligation to protect populations from crimes against humanity.

While these developments have been significant in enabling the international community to pressure states to exercise their R2P, scant attention has been paid to how the R2P can be systematically structured and employed so that the international community can carry it out at field level. In 2005 UN member states called for more predictable, efficient and effective humanitarian action and for greater accountability

when responding to humanitarian crises, especially in situations of mass internal displacement. As a result, in September 2005 the Principals of the Inter-Agency Standing Committee⁵ established the 'cluster approach', assigning responsibilities to lead agencies in order to ensure a more predictable and accountable humanitarian response in emergencies, particularly those resulting in mass internal displacement. The cluster approach was developed with the intention of providing predictable action in analysing needs, addressing priorities and identifying gaps in specific sectors. Referring to the potential efficacy of the cluster approach to respond to protection issues, UNHCR's Assistant High Commissioner for Protection Erika Feller recently noted that "the 'cluster approach'... has been formulated as a means of operationalising the notion of the 'responsibility to protect'".⁶

The protection cluster in South Kivu

The fact that most of the population of the troubled eastern region of the Democratic Republic of Congo (DRC) are at risk of displacement led the UN Humanitarian Coordinator in DRC to ensure the protection cluster addressed the needs of the entire civilian population, not solely IDPs. The protection cluster – joint leadership of which was given to UNHCR and to the UN's DRC peacekeeping mission



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Over a two-year period, this centre in Goma has provided support and protection for more than 4,000 victims of sexual violence.

(MONUC⁷) – set out to provide a predictable response to protection needs and to identify gaps in protecting all Congolese civilian populations. Their co-leadership has matched UNHCR's political neutrality and significant operational humanitarian experience with a UN peacekeeping mission with a solely politico-military mandate. This has created a first-of-its-kind joint leadership responsibility to meet civilian protection needs.

In the eastern province of South Kivu the protection cluster was initiated in February 2006. In the absence of much operational guidance it was clear that the cluster could only improve the protection response for civilians if all international actors with protection activities on the ground were mobilised and engaged. From the outset the cluster has involved the participation of almost all significant international protection actors – including UNHCR, MONUC, UNICEF, OCHA, international NGOs and the International Committee of the Red Cross. Their regular participation has enabled the cluster to develop into a forum where the international community is able to discuss the protection context in the province, identify existing protection gaps and needs and work to develop a broad-based protection strategy. The actors have sought to respond immediately to human rights violations – including rape, indiscriminate killing, looting,

international community able to use force or the threat of it to deter violations. The humanitarian-military cooperation bore many fruits as the cluster could access MONUC's considerable amount of security intelligence and directly solicit effective military intervention where civilian populations were at risk.

The cluster is tackling the problem of impunity and the need to promote a rights-based culture by building the capacity of Congolese institutions to respect and enforce the rule of law. UNHCR, with protection cluster partners, has started training the Congolese army on human rights standards and professional military-civilian behaviour, undertaken protection monitoring, launched a public information campaign to disseminate international and national legal civilian protection standards and sought to build the capacity of the judiciary.

However, it is apparent that serious challenges remain:

- The cluster lacks capacity to respond to the massive scale of protection needs in South Kivu. The scale of vulnerability makes it impossible for the co-leaders – UNHCR and MONUC – to develop strategy and lead action to respond to every group and every issue.
- It has proven difficult to hold specialised non-lead protection

torture, forcible displacement and arbitrary arrest – while also addressing the widespread structural weaknesses and lack of capacity of Congolese institutions (the army, police and judiciary) to protect civilians. Due to the active presence of MONUC the protection cluster had a direct line of contact with the sole entity in the

organisations to account and to ensure their regular participation.

- There are shortages of skilled human resources to provide effective leadership.
- There is a shortage of institutional support and high-level guidance of the cluster's operations.

The way forward

The protection cluster has real potential to actualise the international community's R2P in the field. However, it remains unclear how to do so as the UN has yet to develop any detailed institutional rules or guidelines on how the international community should protect civilian populations. On the basis of experience in South Kivu, we suggest:

- the IASC Principals officially mandate the protection cluster with responsibility to protect all civilians
- developing guidelines detailing how the protection cluster is responsible to meet all facets of ICISS's 'Responsibility to Protect'
- the IASC Principals develop guidelines to detail how different UN agencies are responsible for the lead of specific groups/issues (including gender and responses to sexual and gender-based violence) within the protection cluster
- guidelines be developed detailing what humanitarian activities the protection cluster should pursue to protect civilians in the short, medium and long term, including specific attention to building the capacity of state institutions to protect their citizens
- guidelines be developed by the UN's Department of Peacekeeping Operations (DPKO)⁸ detailing what military activities peacekeeping missions should pursue and how they should physically protect civilians
- the IASC Principals and DPKO establish guidelines outlining how UNHCR and the protection cluster's lead agencies for specific groups and peacekeeping missions

should collaborate, detailing their individual strengths and capacities to maximise protection response

- sufficient and skilled staff be appointed to lead the cluster and the cluster's lead groups.

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1. See previous FMR articles www.fmreview.org/FMRpdfs/FMR25/FMR2531.pdf and www.fmreview.org/FMRpdfs/BrookingsSpecial/06.pdf
2. www.iciss.ca
3. See Evans, Gareth, *Banishing the Rwanda Nightmare: The*

Responsibility to Protect (March 2004). www.pbs.org/wgbh/pages/frontline/shows/ghosts/etc/protect.html

4. www.un.org/aboutun/charter/chapter7.htm

5. The IASC is the primary mechanism for inter-agency coordination of humanitarian assistance. www.humanitarianinfo.org/iasc

6. Feller, Erika, 'UNHCR's role in IDP protection: opportunities and challenges', FMR Special Issue Dec 2006, p12. www.fmreview.org/FMRpdfs/BrookingsSpecial/full.pdf

7. www.monuc.org

8. www.un.org/Depts/dpko/dpko