

Protection of internally displaced persons affected by armed conflict: concept and challenges

by

MARGUERITE CONTAT HICKEL

The 50th anniversary of the 1951 Convention relating to the Status of Refugees provides us with an opportunity to share a few thoughts on the concept of protection of internally displaced persons, the political factors underlying the problem of displacement and its humanitarian implications.

In recent years, we have seen the focus of attention of the international community, States, United Nations agencies and international governmental or non-governmental organizations turn to a new dimension of population displacement — displacement within a country as a result of non-international conflict. The early 1990s and the end of the Cold War brought a proliferation of a new kind of internal conflict, and with them a sharp increase in the number of people displaced within their own countries. The terms “conflict based on identities”, “ethnic conflict”, or “religious conflict” are now used in an attempt to characterize the nature of these new confrontations. In States of great strategic importance but with a weakened central authority, the political or religious causes of conflicts are in fact often obscured or manipulated to serve infinitely more profitable economic

MARGUERITE CONTAT HICKEL is a diplomatic advisor and member of the International Organizations Division of the ICRC. She has previously had various field assignments for the ICRC.

interests. Control of natural resources has, often with foreign support, become more than ever an objective for parties to conflict.

In such circumstances, the value of a “civilian” — someone who does not participate directly in the conflict — is measured in terms of the potential gain that person represents. Previously the collateral victims of military operations, civilians are now the preferred policy instruments of belligerents: when they are not simply the direct targets of attacks, populations are taken hostage, forcibly recruited, made to do forced labour, or even deported to achieve a demographic, political or ethnic balance. The displacement of millions of people as a result of conflicts, which has become an inescapable fact of the post-Cold War period, was something to which the international community could not remain indifferent. Initially raised by certain NGOs (particularly the Commission of Churches on International Affairs and the Quakers), taken up by the mechanisms and agencies of the United Nations system and further highlighted by think-tank discussions and pressure from donor countries, the problems of internally displaced persons have gradually found a place on the agenda of multilateral diplomacy, finally reaching the United Nations Security Council, where diplomats address political and humanitarian aspects in parallel.

The issue of “internally displaced persons” (or “IDPs”) is now recognized as a phenomenon and has become part, as one of the elements of humanitarian affairs, of the field of international politics.

The protection of internally displaced persons

Although all internally displaced persons have the same needs in terms of safety, subsistence and dignity, they nevertheless come under several categories depending on the very different contexts in which they live. The response must therefore be adapted to their needs and take into account the problems specific to each category.

The protection of internally displaced persons will be considered here from the viewpoint of the general protection of civilian populations, the strategy for its implementation, and the complementarity of approaches by the various organizations involved. We shall not go into the rules of law protecting refugees and internally dis-

placed persons or the respective mandates and activities of UNHCR and the ICRC relevant thereto, since these are the subjects of other articles in this issue of the *Review*.

By “internally displaced person” or “IDP”, we mean a person who has been obliged to move within the borders of his or her own country because of an armed conflict or internal unrest. Such people are above all civilians who, as such, are protected by international humanitarian law.

The definition of the protection to which we shall be referring is that adopted by the participants — humanitarian organizations, human rights NGOs and United Nations agencies — in one of the four workshops on protection organized in 1999 by the ICRC: “The concept of protection encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies (human rights, humanitarian law, refugee law). Human rights and humanitarian actors shall conduct these activities impartially and not on the basis of race, national or ethnic origin, language, gender...”¹

According to this definition, any protection action is based on the rule of law. In other words, it may be argued that humanitarian problems, including those that result from displacement in the event of conflict, are the consequences of a violation, deliberate or otherwise, of rules of law and are primarily the responsibility of national authorities that are under an obligation to provide protection and assistance to the population.

In actual practice, the unwillingness or inability of authorities to assume that obligation has prompted the humanitarian organizations to develop assistance activities. Most of them have also realized that they could not limit their role to that of distributing food or medical aid. Learning from their experience, they now also want to back up their emergency operations with action intended to protect assisted persons, and to reach a consensus on the sharing of roles.

¹ *Third Workshop on Protection for Human Rights and Humanitarian Organizations: Doing Something about It and Doing It Well,*

18-20 January 1999, Report, ICRC, Geneva, 1999, p. 21.

What does action intended to protect a person entail? According to the participants in the workshops mentioned above, such action or activity, be it the provision of material help or otherwise, must allow the creation of an environment conducive to respect for the human person, whether it is intended to prevent or terminate a violation or reduce the immediate effects thereof, or to restore decent living conditions.² The framework of protection includes three types of activity:

- *responsive action*, taken during the emergency phase and intended to bring violations to an end, reduce their effects or prevent further violations (e.g. by giving emergency food aid, the building of a camp, or contacts with an authority intended to stop a population displacement);
- *remedial action*, taken after the emergency phase and intended to restore human dignity or provide appropriate living conditions for people who have been the victims of violations (e.g. a psycho-social programme for women rape victims, the collection and forwarding of tracing requests for people who have become separated, or the construction of shelters enabling displaced persons to return); and finally,
- *environment-building* that promotes a social, cultural and legal environment conducive to respect for the rights of the individual in accordance with the spirit and the letter of the text of relevant laws (e.g. the training of officers in the rules for the conduct of hostilities, support for prevention programmes on the dangers of anti-personnel mines).

These three types of activity can be undertaken simultaneously by an organization, but some agencies prefer to concentrate on a single type of activity. They can also mesh in with modes of action or working methods used by humanitarian organizations in their contacts with authorities,³ i.e.:

² *Fourth Workshop on Protection for Human Rights and Humanitarian Organizations: The Challenges of Complementarity*, 16-18 February 2000, Report, ICRC, Geneva, 2000.

³ See also Paul Bonard, *Modes of Action Used by Humanitarian Players: Criteria for Operational Complementarity*, ICRC, Geneva, 1999.

- *persuasion*, intended to convince authorities by dialogue (e.g. by confidential oral or written approaches) to end a violation or to help the victims of a violation;
- *denunciation*, intended to exert pressure on the authority and compel it against its will, to end a violation or help the victims thereof (e.g. by publishing reports on human rights violations, or issuing public appeals);
- *substitution*, whereby the organization seeks to act in lieu of the authority to end a violation or help the victims of that violation (e.g. by delivering food or installing latrines). The aim of another form of substitution — indirect or institutional support — may be to reinforce the capabilities of authorities.

Generally, each organization uses a “preferred mode of action”, and modes of action can be combined. Certain human rights organizations are more inclined to publicize their information and even to denounce those responsible for violations, whereas other operational organizations prefer to use the substitution mode and assist displaced persons directly. In general, an organization will base its action on the strategy it feels is most suitable, depending on its mandate or expertise and on the authorities’ attitude and capabilities.

For its part, the ICRC believes in an approach based on persuasion and continuing and confidential dialogue with all parties to a conflict, be they State players or armed opposition groups. Deployment of its delegates in the field, particularly in sensitive areas, enables it to keep the situation under constant review, to monitor application of the law, and to make the appropriate representations to political and military authorities in order to end or prevent a violation. An approach of this kind relies on the establishment of a relationship of trust with all the parties; in the opinion of the ICRC it is essential to be able to have access to victims and ensure the safety of humanitarian personnel. Its activities in Colombia are a good illustration of the modes of action that serve as points of reference for it. That being said, if confidential approaches do not work, the ICRC is always able to mobilize the diplomatic community or even, in exceptional cases, to resort to public appeals in order to resolve a situation. Both modes of action, persuasion and substitution, are often used in tandem. And

the ICRC will more often than not back up its diplomatic approaches to the parties with operational activities in the field intended to enable the civilian population to remain in their homes, to protect them during displacement or prevent further displacements, and then to facilitate the local integration or the return of displaced persons.

Specifically, the ICRC can provide material, medical and food aid (shelter, water, evacuation of the wounded, etc.) and give technical support to the authorities (dissemination and training). In the realm of active protection it will, for example when family ties have been disrupted by conflict, register those who have been displaced, try to trace those who have disappeared, arrange for the exchange of Red Cross messages and reunite the members of dispersed families. It will also offer its services to visit people who have been arrested. Special attention is given to persons and groups deemed to be particularly vulnerable (unaccompanied children and women, the elderly, etc.).

In situations of armed conflict and internal disturbances the ICRC will in fact always try to give priority to those with the most urgent needs. Because of their precarious situation, displaced persons are frequently, although not exclusively, among the main beneficiaries of its work. Moreover, the host populations, which are sometimes minority groups or resident populations that have been unable to move away, often have to face a situation that is just as difficult, if not worse. Instead of developing programmes tailored to the needs of the displaced persons, it will then be necessary to adopt an overall approach and define the appropriate operational modes according to the context.⁴ Finally, by virtue of its recognized right of initiative and its status as a neutral and independent institution, the ICRC will be able to act as an intermediary between the warring parties themselves

⁴ As in Angola, where the ICRC is developing assistance programmes (water, food, seed distributions, etc.) for both the resident and the displaced population of the Huambo

suburbs, or in Afghanistan, where it is helping the populations *in situ* so as to avert displacements.

or between those parties and the displaced persons so as to facilitate contacts between them, or even to settle a humanitarian problem.⁵

Population displacements very often take organizations by surprise, obliging them to attend to the most urgent matters first and react in a rather unprofessional and disorganized manner. Hence the importance for organizations of exchanging information, constantly analysing a situation, and organizing in a concerted fashion the planning of an operation by preparing intervention plans and setting up contingency stocks of equipment and food on the spot, etc. It goes without saying that the quality of a humanitarian response in terms of protection and assistance depends largely on the aid organizations' state of preparedness for an emergency.

Finally, it would be pointless today to talk of the protection of displaced persons without raising the question of access to victims: too many displaced populations nowadays remain unprotected because they are inaccessible. The reasons for this are rarely logistical (lack of communication channels, configuration of the terrain) or political. More often than not, they are purely a matter of security: the parties to the conflict refuse access, or even deliberately target humanitarian personnel. Without going into detail, we note that the debate on the possible or desirable role of armed or peace-keeping forces in safeguarding humanitarian activities, or even refugee camps, is in progress. The risks inherent in the politicization of humanitarian work and the merging of political, military and humanitarian mandates should, however, be borne in mind, particularly in situations of protracted crisis.⁶

Nevertheless, no action to provide effective and lasting protection can be contemplated unless there is a satisfactory security

⁵ Such as the return by boat from Monrovia to their home region in south-eastern Liberia, organized at the beginning of 2001, of several hundred displaced persons who had fled the fighting ten years earlier and had been living since then in poverty in the Liberian capital. Or in Sri Lanka where, at the request of the security forces and the

Liberation Tigers of Tamil Eelam (LTTE), the ICRC is facilitating the passage across the dividing lines for persons and food convoys for the civilian population.

⁶ Meinrad Studer, "The ICRC and civil-military relations in armed conflict", *IRRC*, No. 842, June 2001, p. 367.

environment, and unless belligerents understand and accept the role of humanitarian organizations.

Coordination with regard to protection

The framework of protection developed by humanitarian NGOs and organizations and described above can be operationally useful to humanitarian players in terms of the complementarity of various activities. With these concepts it should also be possible to make the humanitarian response not only more consistent and predictable, but also more effective for the victims of violations, including internally displaced persons.

Within the United Nations system, too, a study has been carried out with a view to conceptualizing the idea of protection and setting up a coordination mechanism.⁷ More recently, the Senior Interagency Network on Internal Displacement was mandated by the Interagency Standing Committee (IASC) to evaluate the quality of humanitarian responses to displaced persons, identify gaps in protection and assistance and make recommendations to the agencies. Four missions and six months later, in April 2001, the creation of a small non-operational coordination office was proposed: the Internal Displacement Unit, in the Office for Coordination of Humanitarian Affairs (OCHA), with the aim of formalizing and strengthening coordination and humanitarian response and the support of the international community for the issue of internally displaced persons.

Lastly, on the normative level, a major survey was undertaken by Francis Deng, Representative of the UN Secretary-General on Internally Displaced Persons, which led, among other things, to the publication in 1998 of the “Guiding Principles on Internal

⁷ “Protection of internally displaced persons”, adopted in 1999 by the IASC and finalized in April 2000: “Plan of action for follow-up to the IASC policy on the protection of

IDPs” and “Supplementary guidance to humanitarian/resident coordinators on their responsibilities in relation to internally displaced persons”.

Displacement". These Principles, which provide a very broad definition of the concept of displaced person, include elements of international humanitarian law, human rights and refugee law covering all the phases of internal displacement. However, the Principles, which are part of "soft law", are not legally binding. And in a situation of armed conflict, in particular, it seems essential to us to invoke the peremptory rule first, i.e. the rules of international humanitarian law applicable to international and non-international armed conflicts that are binding both on State players and on armed opposition groups.⁸ Finally, advocacy of the cause of internally displaced persons is another important part of the role of the Secretary-General's Representative in protection matters.

**The problem of internal displacement:
a humanitarian challenge or an escape for
the international community?**

The attention given by the international community to the problem of internal displacement has certainly helped to make people aware of the plight of those millions of uprooted civilians and to describe the phenomenon that some have rightly called an "exodus within borders".⁹

While welcoming this interest, we must at the same time analyse its operational and political consequences:

- In terms of definition, first of all: humanitarian organizations, States and donors use the same acronym, "IDPs", or term, "internally displaced persons", to denote categories of persons confronted with different situations. But who are they talking about?: Persons recently displaced as the result of a conflict? Persons displaced, regrouped or resettled by force? Displaced persons who have been resettled or have become more or less integrated into the suburbs

⁸ See on this subject Jean-Philippe Lavoyer, "Guiding Principles on Internal Displacement: a few comments on the contribution of international humanitarian law", *IRRC*, No. 324, September 1998, pp. 467-480.

⁹ David A. Korn, *Exodus within Borders. An Introduction to the Crisis of Internal Displacement*, The Brookings Institution, Washington DC, 1998.

of a city? Economic migrants? Or persons displaced as the result of a natural disaster? The use of a simplistic catch-all term (“IDPs”) — not to mention its dehumanizing nature — is bound to give rise to unreliable estimates and exaggerated figures, and to a humanitarian response that is inappropriate, poorly coordinated, or even dangerous as far as protection is concerned. Semantic confusion engenders operational confusion.

- Next, in terms of the target group: in focusing on people internally displaced as a result of conflict there is an obvious risk that protection will be limited to that specific category of person, to the detriment of the rest of the population. It is essential to repeat here that an internal conflict affects whole sections of the population. Those that have been unable to flee or host communities often suffer a fate very similar to that of the displaced persons themselves. Unless segmentation of assistance by target group is part of an overall approach, it is often the source of tensions between host populations and stigmatized displaced populations. In a country ravaged by years of conflict and displacements and lapsing slowly into extreme poverty, the consequences of such tensions must not be underestimated. Over time, the clear distinctions between the categories will become blurred, but without giving way to the harmonious integration of the people from outside. In such situations, should not attention also be given to the far more serious problem of the tens of thousands of long-term displaced persons and that of “urban migrants”?
- In terms of coordination and norms: the special interest taken by the international community in internally displaced persons has been expressed by the establishment, under pressure from donor countries, of a system containing guiding principles, coordination mechanisms and an implementation strategy. It is of course too early to say whether the new Internal Displacement Unit created within OCHA will enable the humanitarian responses by UN agencies in aid of displaced persons to be better coordinated, or whether this structure will simply perpetuate the coordination difficulties already observed. It would be regrettable, however, if these developments in the realm of UN coordination were to endorse, or

even reinforce, the “discriminatory” nature of the approach because of the specific mechanisms set up to respond to the needs of a single category. It is also to be feared that the increasingly frequent recourse to principles that are specifically designed to deal with internally displaced persons and are not binding on States and non-State players will ultimately narrow the scope of the protection granted by international humanitarian law to the entire civilian population.

- Finally, in terms of humanitarian and political factors: the question that may rightly be asked is “Why all this sudden interest?”. The introduction to this article described the political context. It remains to be said that as interest in the problem of internally displaced persons grows, the right of asylum is simultaneously being weakened and the obstacles and means used by governments to control migratory flows and contain potential refugees in their countries of origin are being reinforced. “Preventive measures” and “repatriation” are the order of the day, intended to prevent frontiers from being crossed by drawing the humanitarian organizations into the very heart of conflict situations, and to send refugees back from whence they came in conditions that are less and less compatible with the principles of protection. We and others are entitled to ask whether what lies ahead is the end of “refugee” status. The debate is developing against the backdrop of a decline in the amount of public development aid — which fell from 63 to 53 billion US dollars between 1992 and 1998¹⁰ — and a growing proportion of aid given for humanitarian assistance. The consequences of this trend can also be seen in the case of long-term internally displaced persons or those who have settled around cities. The modest response of States is all too evident: they are more inclined to finance visible operational activities that are packaged, sectoral and destined for certain groups of beneficiaries than to commit them-

¹⁰ *Global Humanitarian Assistance 2000*, an independent report commissioned by the IASC, from Development Initiatives, May 2000.

selves in a responsible and sustained fashion to strengthening the governmental structures and the economic development of the populations affected. This is paradoxical when we know that those donor countries are constantly calling for a coordinated or even an integrated approach for all humanitarian players.

The problem of internally displaced persons is in fact part of a larger set of problems, that of humanitarian action that some people wish to see as an instrument for other purposes or as a substitute for political commitment. Their expectations are illusory: we are in fact far from being convinced that humanitarian action alone can act as a regulator of disturbances on the planet and serve the State-devised strategy of stemming migratory flows. At a time of lasting crises and the marginalization of poorer States or those deemed to be of little strategic interest, it is in our opinion of paramount importance that politics resumes its place courageously, that humanitarian action finds its own space again, and that both are mobilized to respond together and effectively to the real challenge of the future — the requirement for universal respect for the human person.



Résumé

Protection des personnes déplacées en raison d'un conflit armé : un concept et des enjeux

PAR MARGUERITE CONTAT HICKEL

Cet article propose quelques réflexions sur la notion de protection des personnes déplacées à l'intérieur de leur pays dans une situation de conflit armé. Après avoir rappelé le contexte qui a amené la communauté internationale à s'intéresser aux personnes déplacées, l'auteur porte son attention sur le concept de protection et les modes d'action auxquels peuvent se référer les organisations humanitaires, dont le CICR, dans leur activité de protection. Analysant les enjeux liés à cette problématique, en particulier le lien entre la consolidation de la notion de personnes déplacées et la mise en péril du statut de réfugié, elle relève le rôle assigné aux organisations humanitaires par les États. Toutefois, ce n'est pas « l'humanitaire » qui pourra prévenir les déplacements massifs de population ou résoudre les problèmes qu'ils posent, mais bien « le politique » : les États doivent s'employer avec une détermination accrue à créer un ordre politique juste qui contribue à prévenir le phénomène des personnes déplacées dans leur propre pays.

