

I. Introduction and purpose

1. In its 2009 Workplan, the PCWG has articulated a number of objectives under the headline of *mainstreaming protection*, as follows:
 - Draft and develop operational framework of activities to mainstream protection,
 - Based on the framework, develop simple 2-page sector-specific guidance,
 - Contribute to tools/standards/guidelines/ material in development or under review,
 - Contribute to the revision of the SPHERE Standards together with other clusters,
 - Identify and agree on working with two key clusters. Establish framework and joint action plan for protection mainstreaming.

As a basis for the above mentioned activities, the objective of this document is to clarify the content of the concept of *protection mainstreaming* while establishing the rationale, basis, scope and content of the concept, and the respective PCWG responsibilities. The immediate audience of this document is, therefore, PCWG members. However, it is intended to be the basis for guidance to be issued by the PCWG to Protection Clusters in the field.

II. Rationale and basis for the mainstreaming of protection

2. The guidance of reference on protection mainstreaming is provided by the IASC Working Group in its 12 December 2005 Progress Report:

(...) all humanitarian actors share responsibility for ensuring that activities in each cluster and other areas of the humanitarian response are carried out with “a protection lens”. Each of the Cluster Working Groups and Cluster Leads are responsible for ensuring that the protection concerns related to their respective clusters are addressed including, in particular, ensuring that activities carried out under their cluster responsibility do not lead to or perpetuate discrimination, abuse, violence, neglect or exploitation.

3. At the same time, the PCWG has defined a role for itself in helping other clusters discharge this responsibility:

The PCWG works with other clusters to ensure that protection concerns are mainstreamed into their work (...).¹

4. This document uses as a main basis the texts mentioned above. It is however necessary to refer also to the wider context, both in doctrine and in practice, in which the concept of protection mainstreaming currently evolves. The interplay between

¹ PCWG Mission Statement and Terms of Reference, 21 March 2007, available at [http://www.humanitarianreform.org/humanitarianreform/Portals/1/cluster approach page/clusters pages/Protection/PCWG Final Mission Statement and ToR 22 March 2007_1.pdf](http://www.humanitarianreform.org/humanitarianreform/Portals/1/cluster%20approach%20page/clusters%20pages/Protection/PCWG%20Final%20Mission%20Statement%20and%20ToR%2022%20March%202007_1.pdf) [accessed 28 September 2009].

humanitarian assistance and the protection of the rights of affected populations has long been analyzed from a diversity of perspectives. Some studies have focused on the general ethics of humanitarian action and its relationships with the political and the national and international spheres. The UN has produced guidance on human rights based approaches to aid and development, and at the same time NGOs and think tanks have become more involved in offering standards, guidance and innovative practices in operational protection. All these developments, together with the resulting practice have underlined not only the obligation, but also the positive impact of taking protection into consideration. Some of the more relevant policy developments are briefly summarized below:

Academic literature and studies

5. The wider impact of humanitarian action in conflict and other crisis has been analyzed in the academic literature and also in studies by practitioners, such as *Do no harm: how aid can support peace- or war*², and *Condemned to Repeat?: The Paradox of Humanitarian Action*³. These studies provide a useful perspective of the potential negative and positive side-effects of aid, such as the political destabilization caused by faulty emplacement of camps for displaced persons, or how well-designed aid programmes can contribute to reconciliation efforts. These analyses certainly go beyond taking into account protection concerns in the design of sectoral programmes. However, they give a useful insight into the wider implications of humanitarian action for the respect of the rights of affected populations.

Development of standards

6. Seeking equally to contribute to more responsible humanitarian action, several groups of agencies and practitioners have developed sets of standards for humanitarian actors. Noteworthy in the protection field are the results of the ICRC-led workshops on protection in the 90s, published as *Strengthening Protection in War: a Search for Professional Standards*⁴, and more recent efforts by the same institution to establish commonly agreed professional standards for protection work in armed conflicts and other situations of violence. On the side of general disaster response, the Sphere Handbook has recognized protection as one of its key cross-cutting issues, stating that assistance and protection are the two indivisible pillars of humanitarian action and that “the form of relief assistance and the way in which it is provided can have a significant impact (positive or negative) on the affected population’s security”.⁵

The Human Rights Approach in the UN

7. On its side, the UN since 1997 has put a human rights approach at the center of its humanitarian activities. The UN Secretary General's Programme for Reform, launched in 1997, designates human rights as “cutting across each of the four substantive fields of the Secretariat’s work programme (peace and security; economic and social affairs; development cooperation; and humanitarian affairs)”. The programme, thus, seeks to “fully integrate [its human rights programme] into the broad range of the Organization’s activities”.
8. In 2003, a Plan of Action was adopted in September 2003 to implement the recommendations contained in the report of the Secretary General entitled “Strengthening of the United Nations: an agenda for further change” (A/57/387 of 9 September 2002), which reiterates the importance of incorporating human rights into country-level analysis, planning and programme implementation. The Plan of Action’s ultimate goal “includes the promotion of a human rights based approach to

² Mary B. Anderson, *Do no Harm: How Aid Can Support Peace – or War*, Lynne Rienner Pub, April 1999.

³ Fiona Terry, *Condemned to Repeat?: The Paradox of Humanitarian Action*, Cornell University Press, May 31, 2002.

⁴ Sylvie G. Caversazio (ed.), *Strengthening Protection in War: a Search for Professional Standards*, ICRC, 2001.

⁵ The Sphere Project, *Humanitarian Charter and Minimum Standards in Disaster Response*, 2004 (currently under revision).

programming in all development and humanitarian activities". Since then, the UN has adopted the *Statement of Common Understanding*, a non-legally binding document reflecting the principles underpinning a human rights based approach in development programming, and some of the best practices for its implementation⁶. No similar developments have so far taken place for humanitarian work.

Innovative approaches to protection from the NGO community and humanitarian think-tanks

9. Recent policy production and practice by humanitarian NGOs and think tanks have underlined the need for holistic approaches to protection, presenting it not as a highly specialized activity under the exclusive purview of mandated or specialized agencies, but as a general responsibility of the humanitarian community as a whole⁷. In particular, OXFAM has reflected about how general humanitarian activities interact with protection in a wide variety of ways, from aid projects designed to avoid creating secondary risks (such as adequate lighting in areas of latrines, to reduce the threat of rape) to income generation activities tailored to actively reduce protection risks, such as empowering women to reduce their vulnerability to gender-based violence. In this light, OXFAM has developed a distinction between *mainstreaming protection* (humanitarian action as a way to improve civilian safety), *integrating protection* (incorporating protection activities into larger humanitarian programmes) and *protection programming* (standalone and specialized protection activities).⁸
10. An important HPG / ODI document of 2007 also underlines that "*every humanitarian agency should incorporate a minimum commitment to protection into their work*", and offers a framework for establishing the content of such a commitment, discussing the organizational and programmatic implications of this endeavour⁹.
11. These sources focus mostly on situations of armed conflict and share two common approaches to *protection* and *protection mainstreaming*:
 - The understanding of *protection* focuses on the active reduction of the threats to civilian safety, and the strengthening of coping mechanisms of affected populations. This is on occasion presented in contrast with the IASC definition of protection, which more generally focuses on the respect of the rights of individuals¹⁰.
 - *Protection mainstreaming* includes the requirement that all humanitarian action both avoids creating or exacerbating threats to civilians, and contributes to actively reduce existing threats.
12. Needless to say, the PCWG spouses the IASC definition of protection which is: "the concept of protection encompasses all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law. i.e human right law, international humanitarian law and refugee law. Human rights and humanitarian organizations must conduct these activities in an

⁶ Ibid

⁷ The most important include: Swithern, Sophia, *Reclaiming mainstreaming: Oxfam GB's protection approach in DRC*, Humanitarian Exchange, Issue 39, June 2008, available at <http://www.odihpn.org/report.asp?id=2910> [accessed 19 March 2009]; World Vision e.a., *Minimum Agency Standards for Incorporating Protection into Humanitarian Response: Field Testing Version*, August 2008; InterAction Protection Working Group, *Protection in Practice: A Guidebook for Incorporating Protection into Humanitarian Operations*, without date, available at http://www.interaction.org/files.cgi/4784_Protection_in_Practice.pdf [accessed 19 March 2009]; and Humanitarian Policy Group, *Protective Action: incorporating civilian protection into humanitarian response*, HPG report no. 26, December 2007, available at <http://www.odi.org.uk/resources/hpg-publications/reports/26-protective-action-civilian-protection-humanitarian-response.pdf> [accessed 19 March 2009].

⁸ Swithern, Sophia, *Reclaiming mainstreaming...*

⁹ HPG, *Protective action...* p. 1 and *passim*.

¹⁰ Working definitions of *protection* and *protection activities* by a number of humanitarian actors, together with the IASC commonly accepted definition, are included in Annex 1 below to illustrate the nuances in the understanding of protection expressed here.

impartial manner (not on the basis of race, national or ethnic origin, language or gender).” However, it is important to pay attention to alternative approaches to protection particularly when they reflect valid innovations in field practice.

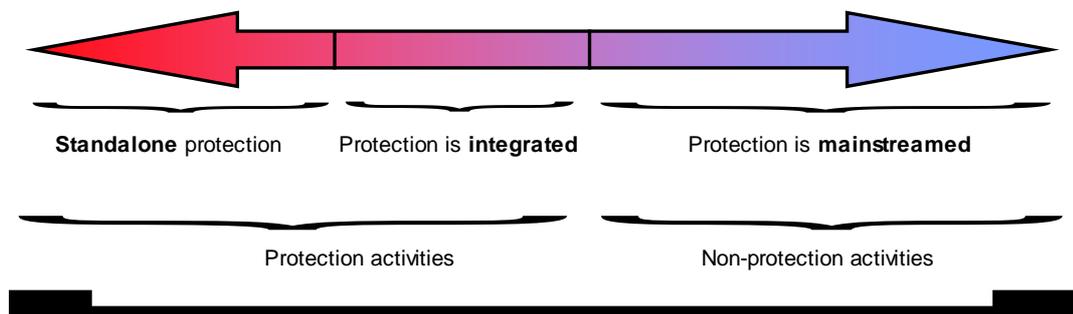
III. Responsibilities, scope and content of protection mainstreaming

13. The IASC guidance on protection mainstreaming mentioned in paragraph 3 above provides in principle ample basis for action of the Protection Cluster and other clusters to ensure that protection concerns are adequately taken into account in humanitarian action. At the same time, as explained above a number of NGOs and think tanks are seeking to systematize practical approaches to incorporate protection as an aim of assistance activities. It remains therefore necessary to address the following questions:
- What is the scope of protection mainstreaming? While the IASC guidance, as referenced in paragraph 2 above, seems to focus the concept to avoiding negative consequences of aid, a different trend in research and practice calls for humanitarian action to actively seek to enhance the protection of affected populations, beyond the obvious immediate impact of the programmes and activities concerned.
 - What is the exact delineation of responsibilities between the Protection Cluster, other Clusters and in general humanitarian actors?
 - What is the content of protection mainstreaming? That is, what are the principles that must be followed to ensure that protection concerns are duly taken into account?

Scope of protection mainstreaming

14. Current debates over the protection responsibilities of humanitarian actors stem partly from the interplay between *protection* as an overall concept which is cross-cutting to all humanitarian action, according to the accepted IASC definition, and *protection* as a more specialized body of knowledge and practice in humanitarian work focused in reducing risk to affected populations and prompting duty bearers, such as States, to abide by their obligations to affected populations.
15. The rights-based IASC definition of protection (see above in paragraph 13) links protection activities to the furtherance of the rights of individuals. Under this definition, and taking moreover into account the human rights based approach developed by the UN, all humanitarian action can in a wider sense be understood as protection, and must be designed and implemented in such a way as to actively contribute to the enjoyment of rights. As an example, the re-building of schools will have to be designed so as to respond to the right to education, ensuring among other requirements that there will be access to all children without discrimination.
16. A different problem is the extent to which humanitarian activities in general and particularly sectoral activities such as shelter and health can also be understood and designed as protection activities, in the somewhat more narrow sense mentioned above. That is, the question remains as to the extent to which these activities must actively contribute to reduce the risk and the exposure of affected populations to threats, to empower beneficiaries to claim their rights, and to prompt duty bearers to comply with their obligations. As instances, a shelter project in a remote area affected by armed conflict might be designed to “open spaces” for wider humanitarian action, to facilitate monitoring of the treatment of civilians, and to open possibilities for advocacy with armed actors; an income generation project for women displaced by a natural disaster may be used to bring women together and empower them to prevent domestic violence.

17. In a nutshell, the position of this document is that *protection mainstreaming* refers to the *minimum* requirements for all humanitarian actors to ensure that a protection lens is incorporated into their doctrine and practice: revolving around the principles of *do no harm; equality; participation and empowerment; and accountability*, that are defined and developed below. The design of humanitarian assistance so as to fulfill objectives considered proper to protection activities (here called *protection integration*) as variously defined in Annex 2, is a welcome and desirable development, much in need of further research and guidance. The requirements to implement these activities go however beyond those of protection mainstreaming and include the need for humanitarian actors to integrate, to the extent necessary to the case, the necessary protection doctrine and knowledge in their structures, and abide by recognized standards of protection work. As examples, the agency implementing the shelter project mentioned above will have to integrate the necessary knowledge of the standards and good practice of protection monitoring; the humanitarian actor seeking to empower women to prevent domestic violence through an income generation project will need experience and knowledge in women's rights, the obligations of States in this regard, and community mobilization. Therefore, *protection mainstreaming* is a requirement for all humanitarian actors, while *protection integration* and the implementation of *standalone protection activities* are not.
18. The difference between protection and non-protection activities must however not be seen as a strict line but rather as a *continuum* along which non-protection activities progressively integrate protection concerns. In this sense, the concept of *protection mainstreaming* encompasses the minimum integration of protection concerns that is a requirement to all humanitarian activities.



Protection: Wide IASC definition

Responsibilities to mainstream protection

19. Not all humanitarian actors will be willing or able to comply with the requirements outlined above, and ill-designed projects may lead to further risks to affected populations and humanitarian actors alike. Therefore, the responsibilities arising from the IASC Working Group in its 12 December 2005 Progress Report should be interpreted as follows:
- All humanitarian actors share a responsibility to ensure that their activities advance the goal of full respect for the rights of the individual. In particular, they must actively seek the mainstreaming of protection concerns in their activities, that is primarily ensuring that they do not lead to or perpetuate discrimination, abuse, violence, neglect or exploitation.
 - Clusters and cluster leads at field level have a responsibility to facilitate and monitor compliance of its members with the above mentioned principle. This

responsibility includes actively calling upon the Protection Cluster to assist with guidance and advocacy, and taking into account this advice and guidance when spontaneously offered by Protection Clusters.

- In a wider sense, Protection Clusters retain a responsibility to analyze the wider impact of humanitarian and other relevant strategies, plans, projects and activities in the protection and the rights of individuals, according to the letter and the spirit of the relevant bodies of law, and to actively advocate with humanitarian and other relevant actors for the fulfilment of their protection responsibilities.

Content of protection mainstreaming

20. The principles of protection mainstreaming, that is the minimum standards to humanitarian actors to ensure that they integrate a “protection lens” to their activities, are here described as follows:

- ***Do no harm***

Humanitarian policies, strategies, programmes and activities must be actively designed and implemented so as not to create or perpetuate, by action or inaction, abuse, violence, discrimination, neglect, or exploitation. Inaction here must be understood as including failure to refer cases of abuse to the relevant authorities or humanitarian actors, except when contrary to humanitarian imperatives.

Harm in this context also includes failure to adequately refer to duty bearers, particularly States, as the main holders of responsibility for protection and assistance, and substituting for these duties or disempowering them without due justification based exclusively on humanitarian concerns

- ***Equality***

Humanitarian policies, strategies, programmes and activities must be actively designed and implemented so as to ultimately result in equal access to rights for all. This principle is closely linked to the first one and has two corollaries:

- Non-discrimination and non-discriminatory effect of aid. Humanitarian action must not be based or result in discrimination of affected populations according to race, gender, age, nationality, ethnicity, political opinion, social group or any other similar criteria. Aid activities may also have non-intended discriminatory effects, such as non-equitable distribution of assistance among different groups of affected populations, when decision-making in aid is not wholly based on need.
- Attention to difference. Humanitarian action must actively identify the different ways in which protection problems affect populations according to age, gender and diversity. They must subsequently identify the best ways in which these protection problems should be met, according to the different effects identified, and to the different impact the responses may have in the different population groups as mentioned above.

It is important to understand that these two corollaries not only are not contradictory to each other, but rather are two sides of the same coin. That is, what both principles seek is to ensure that effective, real access to rights is *equal* to everyone: while non-discrimination focuses on the principle, the differential approach targets the means to achieve that result, that is, it

prescribes more efforts or particular efforts to overcome more obstacles or particular obstacles to enjoyment of rights by particular population groups, in order to guarantee the same end results.

- ***Participation and empowerment of affected populations***

The principle that affected populations must receive information and take part in decisions affecting them, and be considered as an active player in their own personal and social development, must be upheld by humanitarian actors. To this end, humanitarian actors must refer to or at least not weaken existing organizational structures of affected populations, unless this risks violating other principles stated in this document (by, for instance, legitimizing unequal or discriminating power structures). This must never be construed in such a way as to limit or obstruct the responsibility of duty bearers to respect, promote and fulfill the rights to which affected populations are entitled.

- ***Accountability of humanitarian actors towards affected populations***

On their side, humanitarian actors must strive as far as possible to develop accountability mechanisms towards affected populations. This principle is closely linked to that of participation and empowerment and is to be interpreted as establishing the mechanisms through which affected populations can measure the adequacy of interventions and have this judgement taken into account by humanitarian actors in order to adjust their programmes and policies.

IV. As a way of conclusion: some aspects that need further exploration

21. It needs to be recognized that the minimum standards included in this document cover only a part of the wider relationship between humanitarian action and the protection of affected populations. It remains necessary to further explore the theory and practice of *integrating* protection into assistance, that is, the design and use of humanitarian assistance for purposes proper to protection activities, such as obtaining access and empowering affected populations, facilitating monitoring, reducing risk, reinforcing advocacy and in general prompting duty bearers to respond to their obligations. Further attention and dialogue needs to be promoted also with NGOs or NGO consortia such as InterAction, World Vision and Austcare who are active in developing standards and good practices to mainstream and integrate protection into humanitarian operations in general or particular sectors of humanitarian work, such as community development and data collection and needs assessment. Likewise the on-going SPHERE effort to mainstream protection into overall SPERE indicators is one the PCWG needs to work closely with. The Protection and other clusters need to reflect on how to improve coordination and communication among them to maximize the value in these innovative practices.
22. A final aspect that is here annotated for further reflection is the strategic use of non-protection activities for overarching protection goals, such as community reconciliation and contributing to the success of peace agreements. Their implementation would not necessarily require protection expertise but rather high quality coordination between Protection and other clusters, and above all strategic planning of humanitarian operations that fully takes protection considerations into account.

Annex I: Definitions of protection

- **IASC (adapted from the ICRC-led workshops in the 90s)**

“The concept of protection encompasses all activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law, i.e. human rights law, international humanitarian law and refugee law. Human rights and humanitarian organizations must conduct these activities in an impartial manner (not on the basis of race, national or ethnic origin, language or gender).”

- **Definition of protection by OXFAM:**

“safety from violence, coercion and deliberate deprivation”.

- **Definition of protection activities by ICRC:**

“Protection activities concern, in the first place, promoting the physical safety, dignity and integrity of those at risk. More concretely, they consist of a wide range of efforts to prompt those with formal obligations to better assume these obligations while striving to empower those at risk to avoid or reduce their exposure to threats, and to overcome and cope with the consequences of protection failures when they occur”¹¹.

- **Definition of protection activities by ECHO:**

“Protection activities are understood as non-structural activities aimed at reducing the risk for and mitigating the impact on individuals or groups of human-generated violence, coercion, deprivation and abuse in the context of humanitarian crises, resulting both from man-made or natural disasters”.

¹¹ ICRC, *Professional Standards for Protection Work in armed Conflicts and Other Situations of Violence*, draft unpublished document, May 2009.