

## **Improving humanitarian protection in Nepal – a new strategy for the Protection Cluster – October 2010 – October 2011. (FINAL DRAFT)**

*“ We are all strong enough to bear the misfortune of others” Duc de La Rochefoucauld (Maximes 1678 )*

### **Introduction**

This paper was borne out of a series of presentations, discussions and deliberations which took place at the Strategic Review of the Nepal Protection Cluster in Kathmandu on the 29<sup>th</sup> July, 2010. The participants in the review included staff from four Government ministries, the National Human Rights Commission (NHRC), 5 UN agencies, representatives from the Red Cross Movement and from international and local NGOs with a protection and humanitarian brief. Members of the Protection Cluster had suggested in late 2009 that the Cluster’s work needed to be examined and evaluated to ensure that the work of the Cluster was responsive to evolving humanitarian protection needs in Nepal.

The work of the review was also complemented by the visit of a UN led Inter-Cluster Mission in late July 2010 which examined the progress made by all the humanitarian clusters in Nepal and their future role in coordinating humanitarian response in the country. This paper has absorbed some of the key recommendations of that Mission. A review paper of the Protection Cluster’s work since 2008 was also presented to the Inter-Cluster Mission.

**The desired outcome of the Strategic Review was to reach consensus on the main components of a new strategic plan for the Protection Cluster for the next 12 months.** The review examined:

- The performance and scope of the Protection Cluster at both a national and field level.
- The future priorities in regards to protection threats over the next 12 months and how the Protection Cluster would respond to the humanitarian implications of these threats and coordinate an effective protection response?
- What should be the future management of the Protection Cluster with particular reference to Government participation?

### **What is humanitarian protection?**

Humanitarian Protection is a moral and legal set of concepts which covers all **“activities aimed at obtaining the full respect of the rights of individuals in accordance with international law (including international humanitarian, human rights and refugee law)”**. (Inter Agency Standing Committee).

The Protection Cluster’s strategic plan will embrace the three core protection activities:

- **Responsive Action** – activities undertaken in the context of an emerging or established pattern of abuse and aimed at preventing or alleviating its immediate effects.
- **Remedial Action** – activities aimed at restoring dignified living conditions through rehabilitation, restitution and reparation.
- **Environment Building** – activities aimed at creating or consolidating an environment conducive to the full respect of the rights of individuals.

The new strategy will attempt to place protection as an integral and necessary part of future humanitarian response in Nepal, with improved collaboration with other clusters in the country and a greater accentuation on protection as a life saving action. Although the Protection Cluster was

established in 2008 in order to provide more effective coordination and protection response to assist people displaced by the Terai floods and other natural disasters, the Cluster also requires to be more attentive to problems of conflict induced and persistent internal displacement as a result of the internal armed conflict and chronic insecurity in parts of eastern and central Nepal.

### **The protective environment in Nepal – an analysis of vulnerabilities, discrimination, hazards and threats.**

#### **Vulnerabilities and its links to protection.**

Nepal is one of the poorest countries in the world with a set of development indicators which present a deeply worrying acknowledgement of human vulnerability. According to WFP (2009) 3.4 million people are considered to be food insecure with 41% of the country's population consuming less than 2,700 Kcalories in their daily diet. Nearly 25% of the population is living on less than 1 US Dollar a day (UNDP 2007/2008). Malnutrition rates in Nepal produce some of the worst indicators in the world- with nearly 50% of children aged under-5 considered to be stunted and nearly 40% underweight. Despite internationally recognised progress in public health interventions, an estimated 28,000 children die each year from diarrhoea.

Effective child protection is further compromised by the problem of only 20% of children completing secondary education, combined with high rates of illiteracy for women with only 25% of Nepal's female population considered to be functionally literate.

Furthermore, Nepal has an extraordinary high incidence of gender based violence (GBV). A 2008 survey undertaken in Surkhet and Dang indicated that 80% of the women who participated in the survey had suffered from domestic violence from their husbands and 74% had been forced into non-consensual sexual acts.

Harmful traditional practices such as *Chaupadi* (a traditional practice in which women live in cowsheds during the period of menstruation and they are not allowed to touch anybody during that cowshed stay) are still practiced in some parts of the Far Western Nepal adds to the already existing vulnerability of women severely affecting their physical and psychological wellbeing. The high level of violence against women has undoubtedly contributed to a worsening suicide rate within the female part of the population. In the last ten years, there has been a sharp rise in the incidence of female suicide – making suicide the main cause of death in women of reproductive age.

Poverty forcing the male members of family into the short-term migrant labour market into India as well as a longer term labour migration into the Gulf has left many households with the female as the head of family. Such an added responsibility puts them into a much more vulnerable environment during the time of crisis.

Although poor people have learned a range of strategies to cope with the challenges of poverty in Nepal- coping is a fundamental part of poverty - these strategies often fail to meet the demands of the stresses and shocks caused by emergencies. This can lead to the elimination of regularly used and life saving strategies and the substitution of more damaging and short term actions such as transactional sex, child labour, early marriages and disaster induced migration.

Thus chronic vulnerability remains an integral part of Nepal's socio-economic and geographical map placing the country eleventh and fifteenth globally in regards to earthquake and flooding hazards, whilst the World Bank has described Nepal as one of the world's 'hot-spots' for natural disasters.

The 'peace dividend' in Nepal has been miserly in reducing the long term and damaging legacy of the internal armed conflict. Possibly 50,000 to 70,000 people remain internally displaced as a result of conflict. Despite an IDP Policy being passed in 2007 and a Government interim relief programme

many thousands of these IDPs are unable to return home, as they face security threats and serious issues of land and property restitution. Moreover, Nepal is subject to the overview of UN Security Council Resolution 1612. There is compelling evidence of child abduction by some armed groups in the eastern and central Terai.

### **Discrimination**

Certain groups in Nepal have suffered from high and persistent levels of discrimination which have severely limited their access to the economy, to land and property, to education and to development assistance and humanitarian relief. These groups have been described as traditionally marginalised and their low status in society is denoted by their caste, ethnicity and religious affiliation. Although the levels of severe discrimination have declined over the last decade, 47% of the Dalit community remain below the poverty line and the severe diarrhoea outbreak of 2009 disproportionately affected the Dalit community. When emergencies strike, these marginalised groups suffer disproportionately from losses of livelihood, from displacement and often bias in the delivery of services. Hence this structured vulnerability leaves these groups in a precarious position without recourse to more successful coping strategies making them especially vulnerable in times of emergencies.

Moreover, structural discrimination against women leaves poorer women highly vulnerable to exploitative labour, sexual violence and exploitation, displacement and ostracisation. The children of these women suffer from the same confines of discrimination and require more focused assistance in times of emergencies.

### **Major Hazards**

**Earthquakes** – The Kathmandu Valley and western Nepal lie on a dangerous seismic fault line. Although a significant earthquake has not occurred since 1934 in Nepal, the hazard remains a constant one and the loss of life, and likely displacement would run into the tens of thousands in the densely populated city of Kathmandu and its hinterland. The devastating loss of life and fracture of family and community life caused by a severe earthquake above 7 on the Richter Scale would be the greatest protection concern with the likely outcome of thousands of children being orphaned and disabled.

**Floods** – as a result of continuing large scale migration into the Terai of Nepal and the inappropriate movement of people into flood plains, a higher number of people risk their lives and livelihoods as seasonal rains displace communities, destroy crops and bring public services to a halt. Displacement as a result of widespread flooding remains a considerable protection concern – as occurred in the eastern Terai floods of 2008. According to the National Strategy for Disaster Risk Management in Nepal (2008), well over 3 million people had been affected by the consequences of floods over the last 40 years.

### **Landslides**

Landslides remain a constant hazard particularly in the western hill districts of Nepal with inappropriate residence patterns, de-forestation and more intensive agricultural practices leading to a constant but seasonal threat. In the last 40 years over 500,000 people have been affected by landslides with loss of life and livelihoods and internal displacement creating protection concerns.

### **Mines**

The ten year period of the internal conflict has left a dangerous legacy of “explosive remnants of war” with Nepal’s populace facing one of the world’s highest ratios of population living amongst mines and unexploded ordnance (UXO). Although casualties as a result of mine/UXO incidence have

been in decline, nevertheless the problems of Improvised Explosive Devices place Nepal's people in a very hazardous environment with children being the most likely to be injured by this ordnance.

### **Threats**

Insecurity is one of the greatest protection threats. The populations of the eastern and central Terai face chronic insecurity caused by a myriad set of armed groups with different grievances merging with criminal acts. This isolated anarchy has led to widespread extortion, illegal road blocks, abductions and kidnappings, harassment and murders. NGOs are often prevented from working unless protection money is paid. Village Development Committee (VDC) officials and key public servants such as teachers and health staff are subject to regular extortion. There is a 'drip-drip' of internal displacement – not all victims require humanitarian protection, but it creates a worsening law and order environment linked with declining governance and thus leading to one of Nepal's most significant and current protection problems. Development is undermined by this insecurity thereby increasing levels of community vulnerability. Constitutional reform pressures in regards to federalism threaten community harmony, accentuate discrimination and cause preventative displacement.

The inability to forge consensus at a national level in creating a new Government fosters an environment of profound political distrust, creating an impasse in dealing with the recovery and rehabilitation needs of the post-conflict period, postponing urgently needed national debates on truth and reconciliation. All this political uncertainty represents a congeries of protection concerns and plays its part in the persistent and dismal security of the eastern and central Terai and the lack of progress in demobilising combatants in the cantonments.

### **The need for protection coordination**

Chronic vulnerability, the legacy of the internal conflict, localised insecurity, discrimination, widespread gender based violence, the pervasive exploitation of children and the effects of climate change and migration provide a set of protection challenges which are most visible in times of humanitarian need. Internal displacement as a result of violence or natural disasters is a core protection concern but remains a neglected area of current humanitarian response.

Humanitarian protection is often perceived as a marginally beneficial activity in Nepal – little more than human rights philosophising. Protection often fails to be mentioned in national disaster planning documents. It is beholden on the Protection Cluster to change these skewed perceptions. Thus there is a clear need to stress the importance of protection as a vital humanitarian activity in order to ensure that the human rights of all Nepalis are paramount in humanitarian response.

Giving protection its place in humanitarian action can only be fostered through improved coordination and more effective and concerted advocacy, so a new protection strategy must be cognizant of protection's marginal presence in humanitarian planning in Nepal. A more collective drive to give protection a more central and recognized role in humanitarian action is essential over the next 12 months and this will only succeed by a more informed and active protection structure.

### **The paramount goal for the Protection Cluster's work**

In view of the current humanitarian context and the most likely protection threats over the next twelve months the overall goal for the work of the Protection Cluster should be:

**Through improved coordination, protection becomes an effective and essential instrument for humanitarian analysis and action assisting in the fulfilment of the humanitarian needs of affected populations and securing their human rights.**

This overall goal will need to be served by a series of Protection Cluster objectives which will have to be accomplished.

## Protection Cluster objectives

### Responsive action

Objectives	Activities	Indicators of success
<ul style="list-style-type: none"> <li>All humanitarian needs analyses have a protection component</li> </ul>	<ul style="list-style-type: none"> <li>Protection tools are included in all needs assessments</li> </ul>	<ul style="list-style-type: none"> <li>Core protection analysis in all needs assessment reports leading to specific protection actions.</li> </ul>
<ul style="list-style-type: none"> <li>Protection coordination and advocacy are enhanced and bring policy and practice changes to the benefit of the most vulnerable populations.</li> </ul>	<ul style="list-style-type: none"> <li>Monthly coordination meetings take place of the Protection Cluster at a national level and in those districts prone to security and natural disaster problems.</li> <li>Sub-clusters meet on child protection and GBV when necessary</li> </ul>	<ul style="list-style-type: none"> <li>Meetings are well attended encompassing all protection stakeholders.</li> <li>Collaborative decisions are made on protection actions and advocacy as a result of this information</li> </ul>
<ul style="list-style-type: none"> <li>Adequate psycho-social support is available to people who have suffered loss, violence and displacement as a result of an emergency.</li> </ul>	<ul style="list-style-type: none"> <li>Increased training of counsellors at a district level with particular attention given to helping children and women/girls affected by GBV.</li> <li>Child friendly spaces are established in camps where displacement occurs</li> </ul>	<ul style="list-style-type: none"> <li>Prompt counselling is available to people requiring psycho-social assistance</li> <li>A protective environment for children is visible in IDP camps.</li> <li>Schools are kept open despite the problems of access during an emergency.</li> <li>Strengthened collaboration between the Protection and Emergency Education clusters on child protection.</li> </ul>
<ul style="list-style-type: none"> <li>A contingency plan is completed for the Protection Cluster which provides a more efficacious and prompter humanitarian response</li> </ul>	<ul style="list-style-type: none"> <li>Plan is prepared taking note of protection issues as a result of natural disasters, localised insecurity and the revival of armed conflict</li> </ul>	<ul style="list-style-type: none"> <li>Plan is readily available and used in new humanitarian responses.</li> <li>Protection preparedness and readiness is in place.</li> </ul>
<ul style="list-style-type: none"> <li>Improved referral systems for the victims of GBV are established in displacement emergencies</li> </ul>	<ul style="list-style-type: none"> <li>Strengthening clinical capacity at health centre and clinic level to provide care and treatment of women/girls who have faced violence as a result of displacement/dislocation</li> </ul>	<ul style="list-style-type: none"> <li>Integrated treatment is available – “a one stop shop” providing both clinical and psychological care.</li> </ul>
<ul style="list-style-type: none"> <li>Family separation is minimised in times of emergency</li> </ul>	<ul style="list-style-type: none"> <li>Family tracing exercises are begun.</li> </ul>	<ul style="list-style-type: none"> <li>Numbers of children reunited with their families</li> </ul>

## Remedial Action

Objectives	Actions	Indicators of success
<ul style="list-style-type: none"> <li>Durable solutions for IDPS are increasingly attained.</li> </ul>	<ul style="list-style-type: none"> <li>Promotion of the national IDP Policy and Directives</li> <li>Stakeholders' workshops in Kathmandu and in the regions where there are major displacement problems</li> </ul>	<ul style="list-style-type: none"> <li>Improved understanding of the National IDP policy amongst public officials and humanitarian agencies.</li> <li>Continuing registration of new IDPS</li> </ul>
<ul style="list-style-type: none"> <li>Information on the profile of IDPs is kept updated</li> </ul>	<ul style="list-style-type: none"> <li>A field level survey of the main internal displacement areas is undertaken examining humanitarian needs and return and rehabilitation issues</li> </ul>	<ul style="list-style-type: none"> <li>Documented statistics on increased patterns of return.</li> <li>Compensation payments expedited</li> <li>Improved restitution of property.</li> <li>Registration of new IDPs</li> </ul>
<ul style="list-style-type: none"> <li>Deaths and injuries in relation to mines and UXO and IEDs are reduced</li> </ul>	<ul style="list-style-type: none"> <li>Mine Risk Education integrated into school activities.</li> <li>Mine clearance programmes are expanded</li> </ul>	<ul style="list-style-type: none"> <li>Statistical evidence of reduced casualties and more effective mine and UXO clearance</li> </ul>

## Environment building

Objectives	Actions	Indicators of success
<ul style="list-style-type: none"> <li>Protection is fully understood by all humanitarian stakeholders as an essential humanitarian action</li> </ul>	<ul style="list-style-type: none"> <li>Conceptual briefings given to all humanitarian clusters</li> <li>Training provided on child protection and GBV to security officials and public servants.</li> </ul>	<ul style="list-style-type: none"> <li>Within the cluster system, protection is accepted as a key humanitarian activity with inter-cluster implications.</li> <li>Improved responsiveness by State duty bearers in dealing with child protection and GBV violations.</li> </ul>
<ul style="list-style-type: none"> <li>Protection of civilians is strengthened in conflict affected districts</li> </ul>	<ul style="list-style-type: none"> <li>Structures established at a local level to oversee protection training, improved dialogue between communities and key public structures and the promotion of the role of Women's Development Officers.</li> </ul>	<ul style="list-style-type: none"> <li>Camp coordination structures are established where there is new displacement.</li> <li>Improved information flows from vulnerable districts leading to a coordinated humanitarian response</li> </ul>
<ul style="list-style-type: none"> <li>Protection capacity in Nepal is recognised and</li> </ul>	<ul style="list-style-type: none"> <li>A 'Who does what' exercise on protection</li> </ul>	<ul style="list-style-type: none"> <li>A map of where protection capacity in</li> </ul>

expanded	agencies is completed	Nepal is produced. <ul style="list-style-type: none"> <li>• Gaps analysis on Protection capacity is realised</li> </ul>
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### **Monitoring**

The National Protection Cluster will undertake quarterly reviews to assess the impact of the work related to the objectives and will adjust plans and work accordingly.

### **Management of the Protection Cluster**

Both the Strategic Review and the Inter-Cluster Mission recommended that the UN and the Red Cross and other international organisations should provide the leadership of the clusters for the next two years. This would mean that the National Protection Cluster would be managed under OHCHR's leadership. However, the Inter-Cluster Mission strongly recommended an increased role for Government in cluster coordination. It has been agreed that the Ministry of Women, Children and Social Welfare should be the co-chair the Protection Cluster at a national level and lead the Cluster at a District level.

### **Liaison**

The Protection Cluster will work in collaboration with those clusters where close liaison is required – such as health and emergency education, as well as being part of the Early Recovery Network. Equally important are the strengthening of relationships with longer term structures on Transitional Justice as well as the Gender Forum and critical human rights structures, such as the 1612 Country Task Force on Monitoring and Reporting Mechanism.

### **Conclusion**

The next 12 months will provide a 'litmus test' for the Protection Cluster in improving its credentials in collaborating with other clusters and strengthening protection mechanisms as part of humanitarian action in Nepal. This new strategy for the Protection Cluster attempts to provide a 'road map' for improving the protection overview in Nepal with an increased response to improving the human rights of IDPs.

