

HUMANITARIAN PROTECTION POLICY

FOR

THE ACT ALLIANCE

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SUMMARY

Core Principles for ACT Alliance Humanitarian Protection Work

Principle 1: Prioritise the safety, dignity and empowerment of all women, girls, boys and men at all times without discrimination.

Principle 2: Make a core commitment to mainstream gender and protection into all humanitarian assistance programmes.

Principle 3: Adopt a community-based approach to protection work that enables the active participation of communities in determining appropriate risk reduction measures.

Principle 4: Ensure that all humanitarian needs assessments address risk, taking into consideration threats, vulnerabilities and capacities of individuals and communities.

Principle 5: Ensure mechanisms are in place to prevent and respond to the occurrence of sexual abuse and exploitation and gender-based violence.

Principle 6: Ensure that organisations having 'specialised' protection programmes observe professional standards and have the capacity and expertise to meet the standards required.

Principle 7: Ensure all personal and protection-sensitive information is managed responsibly.

Principle 8: Protection advocacy must be based on a careful risk-benefit analysis involving field staff and affected communities and be part of an integrated protection strategy.

Principle 9: Recognise that the State has the primary responsibility for protection and ensure that the ultimate aim of protective humanitarian action is to reinforce, not replace, the State's responsibility to respect, protect and fulfil human rights.

Principle 10: In situations of international and non-international armed conflicts, recognise and promote the obligations of States and armed non-state groups under international humanitarian law, including to respect and protect civilians, as well as to facilitate the work of humanitarian organisations working in areas affected by armed conflict.

Principle 11: Seek to work in a complementary and collaborative manner with other humanitarian actors in order to strengthen the impact of collective protective action and avoid unnecessary duplication.

1. INTRODUCTION

1.1. Background

Many members of the ACT Alliance offer assistance to people in natural and man-made crisis situations. Striving to reach people in need across front lines and national borders, they provide assistance without discrimination.

Since the 1990s, however, there has been an unprecedented increase in the protection needs of those we seek to assist. In particular, deliberate or indiscriminate attacks during armed conflicts that kill, injure and forcibly displace civilians; the increase in the use of rape as a strategy of war, the recruitment and abduction of boys and girls as child soldiers and sexual slaves, and persistent sexual exploitation and abuse and other gender-based violence such as rape, female genital mutilation, forced child and teenage marriages and domestic violence.

1.2 Policy statement

ACT is acutely aware of the need to meet these challenges by encouraging and assisting its members in their efforts to provide more effective protection to crisis-affected communities, particularly for women, girls and young men who are disproportionately affected by violence, coercion, deprivation and abuse. In keeping with this core aim, the purpose of this policy is to strengthen ACT Alliance's commitment to the protection of women, girls, boys and men in its humanitarian assistance programmes and to provide a definition, framework and principles for the community-based protection work of the ACT members, ACT partners and ACT national and regional forums.

1.3 Core ACT commitments

ACT believes that addressing humanitarian protection requires ACT members to ensure full and equal respect for the rights and freedoms of all individuals without discrimination, including civil and political rights and economic, social and cultural rights.

As members of the ACT Alliance, we are also bound together by core values that are grounded in our Christian faith and guide our humanitarian work. Therefore, based upon our Christian theology and the standards of the humanitarian sector in which we operate, we acknowledge that the ACT Alliance – including its Secretariat, members, associated bodies and partners and national and regional forums - have a 'shared responsibility' to ensure the protection of affected populations and a corresponding duty to effectively ensure the safety, dignity and empowerment of crisis-affected populations in all of our humanitarian programmes. We also acknowledge that a key ingredient for good protection work is full and equal participation of women and men in decision making.

1.4. What governs ACT's protection work?

ACT's humanitarian action is guided by the fundamental humanitarian principles of humanity, non-discrimination, impartiality, independence, justice, accountability¹ and participation² and grounded in the desire for the legitimate and effective implementation of international humanitarian, refugee and human rights law. ACT has also endorsed the Sphere Humanitarian Charter and Minimum Standards in Disaster Response and recognises the principles contained within the *Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief* as the fundamental standards for its humanitarian programmes – a code that is endorsed by ACT governance and to which members are signatories. ACT members and their partners who are accessing ACT funds are required to apply ACT policies to their work, including the following policy documents that specifically relate to protection:

- ◆ Code of Conduct for the prevention of Sexual Exploitation and Abuse;
- ◆ Complaints Policy and Procedures;
- ◆ Gender Policy Principles;
- ◆ Principles of ACT Safety and Security;
- ◆ HIV Policy in Humanitarian Emergencies;
- ◆ Anti Fraud and Corruption Policy; and
- ◆ The ACT Alliance Code of Good Practice.

Landmark UN Security Council Resolutions on protection provide a normative framework for ACT's protection efforts, including:

- ◆ Resolutions 1265 (1999), 1296 (2000), 1612 (2005) and 1674 (2006) on the protection of children affected by armed conflict;
- ◆ Resolution 1325 (2000) and 1820 (2008) relating to the protection of women in armed conflict and their role in promoting peace and security; and
- ◆ Resolution 1674 (2006) protecting civilians in armed conflict, emphasizing the importance of prevention of conflict.

There are a number of other UN Security Council Resolutions, Conventions and UN documents which ACT has incorporated as part of its Gender Policy Principles and Code of Conduct on Sexual Exploitation and Abuse that specifically relate to protection, including:

- ◆ UN Secretary General's Bulletin 2003/13 on "Special Measures for Protection from Sexual Exploitation and Sexual Abuse";
- ◆ The Guiding Principles on Internal Displacement" (UN 1998)
- ◆ The Convention on the Elimination of All Forms of Discrimination against Women;
- ◆ The Convention on the Rights of the Child; and
- ◆ The UN Inter-Agency Standing Committee (IASC) Gender Handbook and Guidelines on Gender-Based Violence Interventions in Humanitarian Settings.

¹ The ACT Secretariat and a number of its members are also members of the Humanitarian Accountability Partnership (HAP) and some are undergoing HAP certification to help strengthen their accountability to affected populations.

² To better understand how the principles relate to protection, see Chapter 1, Professional Standards for Protection Work (ICRC 2009).

2. UNDERSTANDING ‘HUMANITARIAN PROTECTION’

2.1 What is ‘humanitarian’ protection?

The ACT Alliance has adopted the commonly used ICRC-NGO definition of protection, which has also been adopted by the IASC. It refers to protection as:

*“All activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of international 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)”.*³

The definition emphasises the international legal framework for protection, underscoring the need for a ‘rights-based approach’ to protection, which recognises people as ‘rights holders’ and responsible organisations as ‘duty bearers’. However, while it broadly defines the ‘scope of protection activities’, it does not offer any further limits or clarity in terms of what role or what type of activities NGOs should focus on with the broader field of protection.

For ACT, ‘protection activities’ mean non-structural and non-violent⁴ field-level activities aimed at preventing, reducing or mitigating the impact of violence, coercion, deprivation or abuse on individuals or groups during humanitarian crisis brought about by man-made or natural disasters by reducing threats and vulnerabilities or increasing people’s capacity to cope with these threats and vulnerabilities.

These activities can be remedial, responsive or environment building and fall within one or more of the five basic modes of humanitarian action: support, substitution, persuasion, mobilisation and denunciation (the former two involve providing assistance and the later three being modes of advocacy). See Annex 2: Terms and definitions.

Many humanitarian NGOs also make a distinction between ‘humanitarian’ protection and ‘social’ protection, with ‘humanitarian protection’ seen as addressing extreme acts of violence, coercion and deprivation; while ‘social protection’ is viewed as any public action to help people tackle the wider issues of risk, vulnerability, extreme and chronic poverty. ACT recognises that the two are interlinked as perpetrators often exploit long-term vulnerabilities that stem from a lack of social protection such as the lack of the full inclusion of women in all decision-making.

³ S. Giossi Caverzasio (ed.), Strengthening Protection in War: A Search for Professional Standards: Summary of Discussions among Human Rights and Humanitarian Organizations, Workshops at the ICRC, 1996-2000, ICRC, Geneva, 2001.

⁴ In this context, ‘structural’ refers to the long-term process of building or strengthening institutions, and non-violent refers to using peaceful means without the use of any form of coercion or physical force.

2.2 Who is responsible for protection?

Individual States have the primary responsibility to protect people within their jurisdiction and/or territory. In situations of armed conflict, all parties including armed non-state actors are legally bound by International Humanitarian Law to protect the people within their territory and/or control.⁵

Some governments strive to meet their protection obligations. Others lack the capacity to protect, while others still choose to offer protection selectively or not at all. Worse still, some authorities perpetrate violations against their people. When this happens, “[a] protection response by other actors is then required to protect those at greatest risk. This can take the form of action by other States. As members of the United Nations, and as parties to the Geneva Conventions, States bear protection duties for persons at risk, even if these persons are outside their jurisdiction. In the Geneva Conventions this is defined as a duty both to respect, and to ensure respect, of the legal standards – thus deliberately keeping the focus on the responsibilities of the primary authorities.”⁶

States have also given the ICRC, UNHCR, OHCHR and UNICEF specific mandates for protection, which means they have formal and/or international legal obligations to act in accordance with their respective mandates and can be held to account if they do not.

Humanitarian NGOs, although not legally mandated, are ethically obliged to respond to protection needs in ways that are consistent with their expertise and capacity. That fact notwithstanding, many NGOs in the past focused almost exclusively on providing assistance, leaving protection to the mandated actors. This policy seeks to rectify that imbalance.

2.3 What approaches to protection do NGOs use?

While the protection role of NGOs is limited in comparison to the mandated protection agencies, their actions have a significant impact on the safety, dignity and empowerment of crisis-affected populations. Over the last decade, two distinct approaches to protection have emerged among humanitarian NGOs.

a) Mainstreaming protection in assistance programmes: Not all humanitarian actors implement distinct protection activities. Many mainstream protection concerns into their assistance programmes - including protection as a key concern right from the start of each humanitarian programme. The focus is on ensuring that organisations prioritise the safety and dignity of affected populations at every stage of the project cycle to prevent ‘unintended harm’ while also ‘maximising the protection benefits’ of assistance programmes. As such, it simultaneously stresses the need for a ‘do no harm’ approach to programming as well as the need to be proactive in adapting relief programmes to reduce the threats and vulnerabilities and strengthen the capacity of affected communities to deal with them.

⁵ All States have now signed the Geneva Conventions, making them universally applicable and all States accountable.

⁶ ICRC 2009, “Professional Standards for Protection Work carried out by humanitarian and human rights actors in armed conflict and other situations of violence”

This approach addresses basic protection concerns – such as well-lit and appropriately located latrines to reduce sexual assaults in Internally Displaced Persons (IDPs) and refugee camps – and stresses community consultation and participation in the design and running of humanitarian programmes in order to ensure that programmes are of good quality and actively reduce risk to crisis-affected populations. Organisations using this approach do not necessarily have specific protection programmes or dedicated protection staff, but seek to enhance the protection outcomes of their existing assistance programmes.

b) Specialised or 'stand alone' protection programmes: Others develop very specific and highly-specialised 'protection' activities with the *primary objective of improving the safety and dignity of crisis-affected populations*. For example:

- Clearing mines and unexploded ordinances;
- Remedying the effects of Sexual and Gender-based Violence or child abuse;
- Tracing and reuniting separated family members;
- Addressing housing, land and property 'rights' claims;
- Reintegrating child soldiers;
 - Strategically using a humanitarian agency's presence to deter perpetrators;
 - Building the capacity of local authorities, armed non-state actors or other duty-bearers to better protect affected populations;
 - Systematic monitoring, documentation and reporting human rights abuses, and;
 - Publicly or privately exposing protection threats to the international community.

These 'specialised' protection activities usually have specific working methods and standards and require a much higher level of expertise and resources than 'mainstreaming' protection.

Some ACT member organisations use both approaches to protection, incorporating protection mainstreaming with some more specialised protection components. Addressing Gender Based Violence (GBV) is a good example of this. A number of organisations are involved in community mobilisation and Behavioural Change Communication⁷ initiatives linked to GBV, while incorporating more specialised health and psychosocial components to provide care to survivors and their children.

⁷ The term Behavioural Change Communication (BCC) refers to a communication activity whose goal is to help individuals and communities select and practice behaviour that will positively impact their lives.

3. THEOLOGICAL RATIONALE

Human dignity is one of the fundamental principles of the doctrines of ethics and Christianity. In the gospels, time and again, Christ calls us to protect one another, to show mercy, to rescue, to speak the truth about violence and to thirst for justice and righteousness for others.⁸ Jesus told the story of the Good Samaritan to emphasize our responsibility to stop and care for the victim. The Bible in many places condemns violence (Matthew 5:39). Sexual abuse is condemned as sinful (Ephesians 5:3-5).

The Bible teaches us that God created man and woman as individuals who have the same value, the same responsibility and the same equality and those who violate them are directly violating God's creation (Genesis 1.26-28). Furthermore, God charged humanity with the responsibility of being the stewards of creation.

The ACT Alliance founding document commits the Alliance to "*guard against the abuse of power by those responsible for protection and assistance to vulnerable communities*".⁹

Therefore, ACT believes that God calls us to:

- Protect one another and ensure that there is no limitations on those whom we protect;
- Promote the equal enjoyment of human rights for all members of society without distinction of any kind, such as race, religion, sex or other status;
- Enhance the strength and resilience of individuals and groups who have been unjustly treated enabling them to receive the justice they deserve;
- Speak out and act against those conditions, structures and systems which increase vulnerability and perpetuate poverty, injustice, human rights violations and the destruction of the environment; and
- Protect and promote the rights of all women, men, girls and boys in society without discrimination.

⁸ Slim, H. "The Christian Responsibility to Protect", a response to Gareth Evans and Konrad Raiser, WCC Experts Seminar on The Responsibility to Protect, Geneva, 21-23 April 2005.

⁹ ACT Founding Document for the unified ACT Alliance, February 2009

4. CORE PRINCIPLES FOR ACT PROTECTION WORK

The core principles outlined below apply to all ACT Alliance humanitarian work and are put forward in order to more effectively address protection in ACT humanitarian programmes. The principles are intended to encourage ACT members to carefully consider the implications of their activities on the safety and dignity of women, girls, men and boys, and help ACT members meet their responsibility to stop, prevent and mitigate human rights abuses by mainstreaming protection in a gender-sensitive way throughout the project cycle and/or developing 'specialised' or 'stand-alone' protection activities.

Therefore, in its humanitarian work, the ACT Alliance shall:

Principle 1: Prioritise the safety, dignity and empowerment of women, girls, boys and men at all times without discrimination

The principle of humanity, which underpins ACT's humanitarian work, demands that priority be given to protecting lives and alleviating suffering, while ensuring respect for the rights, dignity and mental, emotional, physical and spiritual wellbeing of all individuals in situations of risk. Therefore ACT's work needs to go beyond addressing the physical needs of crisis-affected populations and put the individual at the centre of protection efforts.

ACT recognises that protection is not a commodity that can be 'delivered' by its members like other goods and services. Protection is something that people struggle to achieve within the social dynamics of their community and the broader politics of society and during displacement.

ACT member programmes must recognise that...

- The most important facet of 'protection' is people's ability to organise and secure their own protection. Individual and community empowerment is thus a key ingredient for both meaningful and sustainable protection.
- The principle of non-discrimination is equally important as it guards against differential treatment of groups or individuals according to arbitrary distinctions such as sex, age, race, religion or political opinion.
- While women, girls, boys and men of all ages and diversity have the same rights, they may have very different needs that require targeting.

Principle 2: Make a 'core commitment' to mainstream gender and protection into all humanitarian assistance programmes

ACT recognises that gender mainstreaming is central to the success of all protection work.¹⁰ It requires an understanding of the local gender and power imbalances in each community to determine what makes some people more vulnerable than others and the most effective ways of addressing vulnerabilities. In some cultures, different forms of sexual and Gender-Based Violence (GBV) are tolerated. In situations of armed conflict and its imminent aftermath women, girls and boys are particularly vulnerable to certain gender-based risks, such as rape and other forms of torture, abduction for sexual slavery, and 'femicide'.¹¹ In some recent wars, men have been selectively killed for the purpose of ethnic cleansing.

At a minimum, all ACT members involved in humanitarian action should adopt a core commitment to gender and protection, including:

- Adhering to the ACT Gender Policy Principles;
- Having an organisational policy on protection reflecting the letter and spirit of the ACT Protection policy and/or full adoption of the policy;
- Ensuring that gender and protection are mainstreamed into each ACT member's policies, manuals and procedures and in all stages of the programme management cycle (assessment; design; implementation, monitoring and evaluation).
- Supporting staff in implementing this policy by providing appropriate training, guidance material, management support and tools and resources;
- Establishing mandatory staff training on protection on issues such as: intercultural awareness; communication, interviewing, negotiation, mediation; contextual and political analysis; legal knowledge; drafting; advocacy; data collection, storage and finance and management skills, where relevant.
- Having processes in place to respond to abuses witnessed during work such as reporting mechanisms, safe referral systems and staff guidance and counseling;;
- Ensuring that all needs assessments and strategic analysis include protection risks;
- Developing an organisational policy on protection advocacy outlining the risks the organisation is willing or unwilling to take and how these risks will be managed; and
- Acknowledging that while humanitarian action is rooted in the humanitarian imperative, it none the less must be closely monitored to ensure programmes are of high quality and accountable to crisis-affected communities without increasing their level of risk.

¹⁰ See the ACT Gender Policy Principles, the ACT Code of Conduct on Sexual Exploitation and Abuse (SEA) and the ACT Complaints Policy at www.actalliance.org

¹¹ The systematic killing of women for various reasons (usually cultural), such as honor killings.

Principle 3: Adopt a community-based approach to protection work that enables the active participation of communities in determining appropriate risk reduction measures

ACT recognises that protection is not a commodity that can be 'delivered' by its members like other goods and services. Protection is something that people struggle to achieve within the social dynamics of their community and the broader politics of society, including during displacement. In keeping with this understanding, ACT recognises that the most important facet of 'protection' is people's ability to organise and secure their own protection. Empowerment is thus a key ingredient for tangible, durable and sustainable protection.

ACT also recognises that people are the main actors in their own protection. They have unique locally-adapted protection strategies, and when it comes to securing their own protection in crisis situations, their friends, family and immediate community are usually their first line of defence and often their 'last resort'.

Accordingly, ACT promotes a community-based, gender-sensitive approach to protection based on the fundamental principles of humanity and non-discrimination, which must be applied at all times during assessment, analysis, prioritisation, implementation, monitoring or evaluation of programming. The core aim of this approach is to strengthen 'self-protection' capacity of crisis-affected communities and ACT expects that its staff, members and partners will direct their protection efforts toward this end, acknowledging the capacity of affected communities, their locally-adapted protection strategies, and their right to participate and make decisions affecting their own safety, security and dignity.

This does not mean endorsing negative community coping strategies or turning a blind eye to harmful traditional practices. On the contrary, ACT acknowledges that sometimes it is the very families and communities that vulnerable people turn to, and depend on, for protection that take advantage of their vulnerability and carry out violations of their fundamental rights. This may include sexual abuse and exploitation of women, girls, young men and boys. Nor does it mean that ACT members should turn a blind eye when communities continue to condone or overlook domestic violence and traditional practices such as child marriage.

Therefore, ACT members should seek to:

- Include communities as informants, analysts, evaluators and implementers in their own protection
- Build on community capacities and positive, locally-based protection strategies
- Change attitudes and behaviours in communities that allow human rights abuses. Indeed, ACT members have a particular obligation to do so as those who are abused or exploited seldom know their rights, applicable legal frameworks and local or national law, and customs often do not take the rights of all groups into account, particularly women.

Principle 4: Ensure that all humanitarian needs assessments address protection risks, including the threats, vulnerabilities and capacities of individuals and community groups

All ACT humanitarian actors have a responsibility to understand the nature of the risks faced by crisis-affected communities and to consider the positive and negative impacts of their work on the safety and dignity of affected groups. Assessing and treating only the symptoms of serious violations can sometimes do more harm than good.

ACT members should seek to identify the root causes of the threats faced by affected communities, the motivations of perpetrators, the circumstances in which abuses occur, the capacities of local communities to protect themselves, and the will and ability of the state and/or other duty bearers to address these abuses. Women and men should be equally involved in identifying and analysing protection problems, if it does not place them in harm's way.

The following considerations¹² should be included in the assessment phase:

- ◆ The nature of the violations, threats and abuses and their impact on the lives of women, girls, boys and men, including minorities, the elderly and the disabled. This must include an analysis of local gender and power imbalances that make some people more vulnerable to abuses and secondary risks such as having to turn to 'survival sex';
- ◆ An appraisal of the ability and willingness of the state to protect its population (its compliance aptitude, resources, political will, specific interests, pressures and personal convictions);
- ◆ Identify relevant legal standards and actors with protection responsibilities (state, mandated agencies and non-government). An assessment of the legal responsibilities of the state and other duty bearers, including armed non-state actors where applicable, with reference to national and regional laws where they strengthen international laws.
- ◆ Gain insight into the structures, institutions and groups involved in committing abuses and their motivations, objectives and constraints. This includes analysing relations between perpetrators (e.g. the chain of command), personal convictions and private interests;
- ◆ Analysis of where and why the protection system is breaking down at the national, international and community levels;
- ◆ A gender-based analysis of the self-protection strategies and capacities of individual, family and community groups and opportunities to strengthen them, taking into consideration age and diversity; and
- ◆ Assessing the protection strategies and programmes of other humanitarian and development actors and developing strategies to complement existing work.

All assessments should have gender and child-specific recommendations and outcomes.

¹² This section draws from ALNAP (Active Learning Network on Accountability and Performance), "Humanitarian Protection", a Guidance Booklet...

Principle 5: Ensure mechanisms are in place to prevent and respond to the occurrence of sexual exploitation and abuse and other forms of gender-based violence

ACT recognises that mainstreaming protection and gender alone will not stop and/or may not ensure an adequate response to Gender Based Violence (GBV), including Sexual Exploitation and Abuse (SEA). ACT members should commit to being proactive in addressing such gross violations of human rights and where members lack the required skills, experience or resources, they should establish safe referral and reporting processes to competent organisations.

ACT recognises that sexual violence is the most immediate and dangerous type of GBV occurring in emergencies. Action must be taken at the earliest stages of an emergency to help prevent GBV and SEA and reduce opportunities for the misuse of power. At a minimum, ACT staff, ACT members, Forums and ACT partners should:

- Understand, sign and comply with the *ACT Code of Conduct*;
- At every opportunity, management should involve staff in discussion on issues related to SEA, providing explanations and clarification on ACT's zero tolerance position, with the overall aim of providing greater protection to vulnerable populations;
- Have at least one fully trained SEA focal point to monitor and receive complaints on SEA;
- Have a strong management commitment at headquarters and country level to stop, prevent and respond to GBV and SEA;
- Require senior in-country managers to ensure that ACT's SEA obligations are met, and support them to achieve this;
- Ensure programme staff have the required skills and training on professional standards to safely and effectively undertake GBV work;
- Provide accurate and reliable information on rights and entitlements to crisis-affected communities to help them to make informed choices and assert their rights;
- Design appropriate locally-adapted and safe feedback and complaints mechanisms that are accessible by all members of crisis-affected populations;¹³
- Adopt risk reduction strategies such as community mobilisation and 'Behavioural Change Communication' in areas where GBV has been identified as a priority risk, to challenge the prevailing beliefs and norms that contribute to the acceptability and perpetration of such violence. Such initiatives can also reduce a community's tolerance to violence creating an environment where perpetrators fear the consequences of their actions; and
- Assist GBV survivors and their children through specialised health programmes when appropriate. If an ACT member, partner or Forum does not have the capacity for this component, then a referral process should be established.

¹³ See the ACT Complaints Policy and Disciplinary Procedures 2010 and the ACT Complaints Handling and Investigations Guidelines;

Principle 6: Ensure that organisations having 'specialised' protection programmes observe professional standards and have the capacity and expertise to meet the standards required.

'Specialised' protection programming requires a far greater degree of skills, expertise, resources and commitment than 'mainstreaming' or 'integrating' protection and gender into existing humanitarian assistance programmes. For ACT members who are considering establishing or expanding specialised protection programmes, it is essential that they have the capacity and expertise to meet the standards required for such initiatives. At a minimum:

- ACT members advocating on human rights issues must have the expertise to be able to refer to applicable national or international laws when addressing issues of impunity and advocating with governments or UN human rights mechanisms.
- Members involved in human rights monitoring and reporting must have high standards of evidence and special procedures for handling sensitive data and ensuring confidentiality and consent.
- Those working with vulnerable or traumatised individuals, particularly children, must have specialised skills.

Given the rigorous demands of specialised protection work, it is also important that ACT members do not over-extend themselves, as more harm than good may be done if organisations create a false sense of security, unrealistic expectations or develop specialised programmes that are unsustainable or depart from the agency's mandate and support base.

Principle 7: Ensure all personal and protection-sensitive information is managed responsibly.

Ensuring that communities and crisis-affected populations are afforded adequate protection requires an in-depth understanding of the context, as outlined in Principle 4 above. It requires information gathering - information that in conflict or unstable situations can be highly sensitive. While there are likely to be many sources of information, *"it is often the people at risk who know most about their predicament and have the greatest insight into the threats against them"*.¹⁴

All ACT employees involved in humanitarian work should be aware of the constraints and responsibilities of gathering and managing information on individuals and events and must observe the following minimum standards:

- Protection actors must collect and handle information containing personal details in accordance with the rules and principles of International Humanitarian Law (IHL), International Human Rights Law (IHRL), and relevant national laws on individual data protection.

¹⁴ ALNAP, "Humanitarian Protection", a Guidance Booklet

- “Systematic information collection, particularly from individuals affected by abuses and violations, must only be carried out by organizations with the capacity and skills, information management systems and necessary protocols in place”.¹⁵
- Those seeking protection information bear the responsibility to assess threats to the persons providing information, and to take necessary measures to avoid negative consequences for those from whom they are seeking information.
- Personal information must only be collected with the informed consent of the person concerned, who is made aware of the purpose of the collection. Unless specific consent to do so has been obtained, personal information must not be disclosed or transferred for purposes other than those for which they were originally collected, and for which the consent was given.
- To the degree possible, keep survivors or communities who have provided information on abuses and violations, informed of the actions taken on their behalf and the ensuing results. Protection actors using information provided by individuals should remain alert to any negative repercussions on the individuals or communities concerned, owing to the actions they have taken, and take measures to mitigate these repercussions.
- Protection actors must avoid, to the extent possible, duplication of information collection efforts, in order to avoid unnecessary burdens and risks for victims, witnesses and communities.
- Security safeguards appropriate to the sensitivity of the information must be in place prior to any collection of information, to ensure protection from loss or theft, unauthorized access, disclosure, copying, use or modification.¹⁶

Principle 8: Protection advocacy must be based on a careful risk-benefit analysis involving field staff and affected communities and be part of an integrated protection strategy.

The ACT alliance has committed to “work together to influence and change the structures and systems which impoverish and marginalise people and actively engage in national/regional and international debates to advocate for positive change for poor and marginalised people on development and relief issues”.¹⁷ Approaches to advocacy across the alliance include “awareness raising, development and human rights education, popular campaigning and public events, policy research and analysis, lobbying and the production of materials to support all of these different styles of advocacy.”¹⁸

Many ACT members views humanitarian advocacy as a critical and complementary means of ensuring effective protection. It should be considered along with other options for protective action at the earliest stages in the development of a programme protection strategy. It should not be considered a ‘stand-alone’ activity or an afterthought.

¹⁵ ICRC 2009, “Professional Standards for Protection Work carried out by humanitarian and human rights actors in armed conflict and other situations of violence”, Chapter 5: Managing sensitive protection information, P. 58.

¹⁶ As outlined in ICRC 2009, “Professional Standards for Protection Work carried out by humanitarian and human rights actors in armed conflict and other situations of violence”, Chapter 5: Managing sensitive protection information.

¹⁷ ACT Alliance, “Policy for the ACT Alliance on Advocacy”, 2008 (interim policy), Pg.5 which can be found on

www.actalliance.org

¹⁸ Ibid

ACT recognises the three internationally accepted modes of action for humanitarian advocacy¹⁹, namely, persuasion, denunciation and mobilisation, and is conscious of risks and benefits associated with each.

- i) 'Persuasion,' when successful, encourages authorities and/or perpetrators to change their behavior through private negotiations or dialogue.
- ii) 'Denunciation' aims to halt or deter abuses by bringing public attention and influence to bear on authorities or perpetrators of abuses (for example, by naming and shaming a state in a public forum). While denunciation does alter the cost-benefit calculations of an actor, it is usually employed as a 'last resort' after persuasion fails, as it aims to force compliance, which can make future cooperation far more difficult.
- iii) 'Mobilisation' can take on many forms and may be used in conjunction with advocacy campaigns that focus on persuasion or denunciation, by building supportive community networks and humanitarian alliances, among others.

The three different modes represent levels of action in the face of any pattern of abuse: halting its occurrence, working alongside the survivors, and promoting lasting changes in the environment in order to diminish the likelihood of recurrence.

Advocacy, however, can have serious risks and may jeopardize humanitarian access, relations with authorities, life-saving assistance programmes and even the security of staff and beneficiaries. However, these risks should not be an excuse for inaction or being a 'silent witness', which inadvertently allows for the perpetuation of abuses. Rather, the potential risks should be carefully assessed and used to develop appropriate advocacy strategies and risk management procedures.

The ACT Alliance promotes the following minimum standards for protection related humanitarian advocacy, believing that effective advocacy must:

- Take every measure possible to minimise risks to the safety, security or human dignity of staff, direct beneficiaries and affected communities.
- Ensure the participation of staff and affected communities in policy development, prioritisation and advocacy strategies and, where appropriate, amplify and project the voices and concerns of affected community members.
- Ensure credible and accurate information and analysis, particularly regarding documentation of abuses and description of duty bearer responsibilities, avoiding distortion, embellishment and mischaracterizing protection problems.
- Ensure confidentiality and protect the sources of their information, including where necessary obtaining informed consent from affected individuals to use personal or identifying information.
- Maximise opportunities to develop alliances and partnerships to increase leverage.
- Be well-timed and target the right actors.²⁰
- Employ a rights-based approach and focus on protection needs of the civilian population by applying International Humanitarian Law, Human Rights Law and

¹⁹ ICRC publication 1999, "Modes of action used by humanitarian players: criteria for operational complementarity", ref. 0722 by Paul Bonard.

²⁰ ALNAP (Active Learning Network on Accountability and Performance), "Humanitarian Protection", a Guidance Booklet, Pilot Version by Hugo Slim and Luis Enrique Eguren.

other relevant frameworks equally and impartially to all relevant actors in a given situation.

- Ideally be based on pro-active longer-term strategies and careful risk-benefit calculations (as opposed to solely being ad-hoc and reactive).
- Be subject to ongoing review, adaptation and effective risk management.
- Reflect the agency's policy and procedures governing protection advocacy.

Principle 9: Recognise that the State has the primary responsibility for protection and ensure that the long-term aim of protective humanitarian action is to reinforce, not replace, the State's responsibility to respect, protect and fulfil its human rights obligations.

As noted in the introduction, under the international rights-based system of protection, the primary responsibility for protection rests with the State, which has the legal responsibility to respect, protect and fulfill the human rights of all those within its territory or jurisdiction. When a State is unwilling or unable to provide effective protection, which is often the case when States are party to a conflict or where disasters overwhelm the capacity of the state, the international community is obliged to provide assistance and protection.

In this context, ACT Alliance and its members are routinely called upon to respond to protection needs. In doing so, however, ACT and its members should not attempt to indefinitely 'substitute' for the State's responsibilities, as this can allow a State to shift its responsibilities to humanitarian agencies. Nor should they consciously undermine the State's will or ability to provide protection.

ACT members undertaking humanitarian and protection activities must consider carefully whether their programmes are aimed at *supporting* the state's capacity to meet its legal obligations to its citizens and residents, or *substituting* for its responsibilities. Generally speaking, if a State is willing but unable to provide protection and assistance, members should include local authorities in their capacity-building efforts on protection, provided they are mindful or not compromising humanitarian objectives or principles. If a State is unwilling to provide protection, members should consider various options for advocacy in conjunction with substitution-based models for assistance and protection to ensure that people's basic needs for safety and dignity are met at the same time that the state is encouraged through advocacy to move towards meeting its protection obligations.

Principle 10: In situations of international and non-international armed conflicts, recognise and promote the obligations of States and armed non-state groups under international humanitarian law, including to respect and protect civilians, as well as to facilitate the work of humanitarian organisations working in areas affected by armed conflict.

Many ACT members operate in countries in conflict with some areas under the control of armed non-state actors. ACT recognises that in all armed conflicts, international humanitarian law imposes obligations on the warring parties to protect and respect civilians and to allow and facilitate humanitarian relief from impartial humanitarian organisations.

Therefore, ACT members...

- Should be aware of the applicable laws and should, where appropriate, call on the parties to an armed conflict to respect their legal obligations.

Principle 11: Seek to work in a complementary and collaborative manner with other humanitarian actors to strengthen the impact of collective protective action and avoid unnecessary duplication.

ACT realises that given the scope, magnitude and complexity of the world's protection problems, neither the ACT Alliance nor its members can ever hope to resolve all of them. For the ACT Alliance therefore, protection is best considered a 'collective responsibility' wherein ACT members strive to attain collaborative working relations and programme complementary with other humanitarian actors²¹ in order to overcome protection challenges at the field level. While this may present challenges due to differences in approach, mandates, expertise and capacity, it should be noted that diversity is in itself a strength, particularly when high levels of complementarity and cooperation are achieved.

Key steps toward ensuring complementarity by ACT members include:

- ◆ Sharing information and analysis on changing patterns of abuse or risks of abuse (except sensitive or personal information) and agency strategies to address protection needs so that they can be incorporated into the analysis and planning of other protection actors;
- ◆ Understanding and respecting the differing mandates, capacities, priorities and expertise of each protection actor and the added value they bring to protection challenges in any given context
- ◆ Taking steps to reduce gaps, enhance synergies, maximise the use of resources and avoid duplication and working at cross-purposes; and
- ◆ Establishing and/or participating in consultative mechanisms, such as local or national protection working groups. For ACT Regional and National Forums, this means ensuring protection is on the agenda and that ACT policies and guidelines on protection are disseminated and implemented by all ACT members of the forums as well as by implementing partners who access ACT appeal funds.
- ◆ Developing collaborative mechanisms with other agencies such as referral pathways, mechanisms to report human rights violations and even joint-protocols for emergency situations such as evacuations or relocations.

ACT values the importance of taking these steps to ensure collaborative working relations and programme complementarity and stands ready to assist ACT members and regional and national forums in achieving these ends.

²¹ The guidance here relates specifically to working with other humanitarian actors, not military or political actors or as part of an 'integrated mission'. For guidance on working with these actors, see the "SCHR Position Paper on Humanitarian-Military Relations", January 2010 on www.actalliance.org

ANNEXES

Annex 1: References and useful resources

Action Aid 2009, *Safety with Dignity: A Field Manual for Integrating Community-Based Protection across Humanitarian Programs*

ALNAP 2003, "Humanitarian Protection", a Guidance Booklet", Pilot Version by Hugo Slim and Luis Enrique Eguren (ALNAP = Active Learning Network on Accountability and Performance)

APRODEV 2008, "Rights-based development from a faith-based perspective", Joint position paper Rights and Development Group, June 2008

Care et al 2008, "Minimum Agency Standards for Incorporating Protection into Humanitarian Response", by Caritas Australia, CARE Australia, Oxfam Australia and World Vision Australia.

Church World Service (USA) 2009, "Putting Safety and Dignity First: A guide to protective action in programming." October 2009. www.churchworldservice.org/protectionmanual

HPG Policy Brief 28, October 2007 "Humanitarian advocacy in Darfur: the challenge of neutrality"

HPG Policy Brief 29, December 2007, "Protective action: incorporating civilian protection into humanitarian response", Overseas Development Institute, Sorcha O'Callaghan & Sara Pantuliano

IASC 2008, "Protection of Conflict-induced IDPs: Assessment for Action" by the PCWG

IASC, 2007, "Handbook for the Protection of Internally Displaced Persons" by the Protection Cluster Working Group (PCWG), provisional release December 2007

IASC 2007, "Guidelines on Mental Health and Psychosocial Support in Emergency Settings"

IASC 2006, "Gender Handbook in Humanitarian Action - Women, girls, boys and men: Different needs, Equal opportunities"

IASC 2006, "Operational Guidelines on Human Rights and Natural Disasters - Protecting Persons Affected by Natural Disasters"

IASC 2005, "Guidelines for Gender-based Violence Interventions in Humanitarian Settings"

IASC 2002, "Growing the Shelter Tree: Protecting Rights through Humanitarian Action"

ICRC 2009, "Professional Standards for Protection Work carried out by humanitarian and human rights actors in armed conflict and other situations of violence"

ICRC 2008, "Enhancing Protection for Civilians in Armed Conflict and other Situations of Violence"

ICRC, 2001, "Strengthening Protection in War: A Search for Professional Standards"

Oxfam, 2008, "Improving the Safety of Civilians: A Protection Training Pack", by Sophia Swithern & Rachel Hastie, ISBN-10: 0855986166

UN ProCap, (ProCAP - Standby Protection Capacity) An Interagency Protection Resource, <http://ocha.unog.ch/ProCapOnline/>

SPHERE Handbook 2004, "Humanitarian Charter and Minimum Standards in Disaster Response"

UNHCR 2008, "Handbook for the Protection of Women and Girls"

UNHCR 2008, "Protection Gaps Framework Analysis"

UNHCR 1999, "Protecting Refugees: A Field Guide for NGOs"

World Council of Churches (WCC), Responsibility to Protect (R2P) Statement

WCC 2005, "The Responsibility to Protect: Ethical and Theological Reflections", WCC Geneva

Annex 2: Terms and Definitions

Violence – Deliberate killing, wounding, torture; cruel, inhuman, and degrading treatment; sexual violence including rape; or the fear of any of these

Coercion – Forcing someone to do something against their will. For example, forced prostitution, sexual slavery, sexual exploitation, forced or compulsory labor, forced displacement or return, restriction of movement, prevention of return, forced recruitment or being forced to commit acts of violence against others.

Deprivation – Being deprived of basic rights. For example, through the destruction of homes, wells and clinics; preventing access to land or markets; preventing delivery of relief supplies; deliberate discrimination in getting jobs, education, land, or services, and; illegal 'taxes' or tolls.

The aim of protection is reduce threats and vulnerabilities and/or increase capacity of affected populations to deal with threats and vulnerabilities.

Threats - The "threat" is the part of the problem related directly to the behavior of the perpetrator – their motivations for hurting civilians, their cost-benefit analysis of what they get out of such an attack, their attitudes that help promote or dissuade an attack. Strategies that reduce threats are those that are aimed at affecting the decision-making of perpetrators: lowering the probability that they will choose to attack.

Vulnerabilities – factors related to the identity, character and/or choices and actions of the person that make them more likely to be at risk of abuses. Strategies that reduce vulnerabilities often get victims "out of the way," or change their behavior to reduce provocation.

Capacities: 'Capacities' are often referred to as the coping strategies that civilians may already have to reduce their threats and vulnerabilities.

Types of Protection Activities:

Responsive action: Immediate action to stop or prevent an abuse or its recurrence, and/or alleviating its immediate effects. Examples: provision of (or referral to) medical assistance to women who were raped; advocating with military commander to arrest soldier responsible for an attack.

Remedial action: Action to assist people to recover from the effects of abuse and avoid secondary abuses. Examples: accompanying women to collect firewood outside a refugee/IDP camp; stigma/social exclusion.

Environment building: Action that aims to consolidate political, social, cultural, institutional and legal norms conducive to developing a protective environment. Aims to change policy, attitude, belief and behaviour. Examples: provision of training to the military forces on refugee, IDP and women's rights; and advocacy with the Government to improve access for women to justice mechanisms.

Modes of Humanitarian Action

The modes of action framework for humanitarian work helps agencies understand how NGOs relate to the state. It explicitly distinguishes between different modes of action in relation to the state, and strives to ensure that the authorities fully assume their responsibilities towards those affected by armed conflict. The following modes of action are chosen depending on the situation, the problems encountered and the program objectives:

Persuasion: convincing authorities or other actors to act of their own accord. For example, convincing the state to respect IHL.

Support: activities aimed at providing assistance to the authorities so that they are better able to carry out their functions and fulfil their responsibilities.

Direct services/substitution: activities providing direct services to people in need, often in place of authorities who are not willing or able to meet their responsibilities to do so.

Mobilisation: activities aimed at getting third parties to influence the behavior or actions of the authorities or other actors, to support them, or to provide assistance to people in need.

Denunciation: often referred to as 'naming and shaming', denunciation refers to publicly exposing, identifying or drawing attention to human rights abuses and their in order to halt such violations or prevent their recurrence. Denunciation is usually considered a 'last resort' and only used in exceptional circumstances as it makes cooperation with authorities difficult and can jeopardize programs, staff and affected populations.