The Office of the High Commissioner for Human Rights (OHCHR) organized a panel discussion on 15 July 2010 entitled “Human rights in humanitarian emergency response: the contribution of the special procedures mechanisms”. The panel discussion, which was chaired by the Deputy High Commissioner for Human Rights (DHC), addressed the importance of integrating human rights considerations in humanitarian responses and explored ways in which the special procedures mechanisms support humanitarian emergency responses with a view to contributing to durable solutions grounded in human rights. The panel discussion also explored ways to create stronger institutional links between human rights mechanisms and humanitarian actors, and addressed the importance of ensuring attention to the specific protection needs of groups in vulnerable situations in relief efforts, as well as in recovery and reconstruction planning efforts.

Participating in the panel discussion were the Independent Expert on the situation of human rights in Haiti (Mr. Michel Forst), the Special Rapporteur on violence against women, its causes and consequences (Ms. Rashida Manjoo), the Director of the New York Office of the United Nations High Commissioner for Refugees (UNHCR) (Mr. Udo Janz), the Permanent Delegate to the United Nations for CARITAS Internationalis (Mr. Joseph Donnelly) and the Director of Humanitarian Affairs at the International Rescue Committee’s (IRC) headquarters in New York (Mr. Gerald Martone).

In her introductory remarks, the DHC noted that humanitarian emergencies were multi-dimensional and therefore required a coordinated response from a range of actors including governments, United Nations (UN) agencies, non-governmental organizations (NGOs) and individuals. It was now widely accepted that human rights considerations should be made an integral part of humanitarian responses and OHCHR endeavoured to work with all stakeholders to that end. The issue was not whether, but rather how best, to implement a human rights-based approach to relief. In this regard, the special procedures had much to share in terms of concrete experiences and contributions to promoting the human rights dimension in emergency situations.

The DHC highlighted some of the ways through which special procedures mechanisms contribute to humanitarian actions and the resulting consequences for humanitarian operations. She referred to the thematic work of the special procedures and the provision of legal, policy and operational guidance for humanitarian actors to ensure the protection of the rights of people affected by emergencies. Examples provided included the work of the Representative of the Secretary-General on the human rights of internally displaced persons (IDPs) in developing the Guiding Principles on Internal Displacement in cooperation with the key humanitarian actors in 1999, and the work of the Independent Expert on minority issues in
producing, with the UN Development Programme (UNDP), a toolkit to strengthen staff understanding and integration of minority issues across UNDP’s areas of work. The DHC also referred to the provision of timely responses and expertise on such issues as displacement, freedom of movement and the right to life and drew attention to the work of several thematic mandate-holders in Lebanon immediately following the 2006 crisis. She highlighted awareness-raising activities about specific protection concerns and mentioned the role of the Special Rapporteur on the sale of children, child prostitution and child trafficking, the Special Rapporteur on trafficking in persons, especially in women and children and the Special Representative of the Secretary-General on violence against children in drawing attention to the increased risks faced by unaccompanied and separated children in Haiti following the earthquake. The DHC also made reference to the provision of critical technical support in emergency situations and drew attention to the work of the Representative of the Secretary-General on the human rights of IDPs in providing sustained technical support in the elaboration of national policies and legislation to address situations of displacement resulting from humanitarian emergencies.

The DHC concluded by stating that the panel discussion was part of a continuing process of sharing experiences and furthering thinking on how best to integrate human rights in humanitarian responses. It was important to consider how to make the most of the rich body of expertise and experience that resided with the human rights special procedures mechanisms in meeting the needs of populations in emergencies and post-crisis situations.

The Independent Expert on the situation of human rights in Haiti spoke of the interrelatedness of human rights and humanitarian crises and the relevance of a human rights-based approach to humanitarian response. While his mandate had originally been established to specifically monitor the situation of civil and political rights in Haiti, it had recently been expanded to address economic, social and cultural rights. Based on his country visits and reports on Haiti immediately following the earthquake, the Independent Expert provided concrete examples of how various rights, civil and political as well as economic, social and cultural rights, were affected by a humanitarian crisis. He also highlighted the protection needs of specific groups, such as persons with disabilities, children, the elderly and IDPs. The Independent Expert was able to address such issues with relevant actors and to develop recommendations, which were included in his reports to the Human Rights Council (HRC). Drawing upon these examples, the Independent Expert highlighted the role of the special procedures in situations of humanitarian emergencies and in contributing to durable solutions grounded on human rights. He also specifically addressed the role that a country-specific mandate could play in the context of natural disasters, particularly with regard to protection issues.

The Independent Expert asserted that human rights issues should be incorporated at the very beginning of humanitarian crises. Yet, he had observed that some Member States were initially reluctant to support the recent HRC special session on Haiti (27 January 2010), which focused on a human rights approach in support to the recovery process. For those Member States, providing humanitarian assistance was a more urgent priority while human rights issues could be postponed to a later stage. The Independent Expert reiterated that there should be a place for the protection of human rights at an early stage in a humanitarian crisis. In his view, the
HRC was best placed to address such issues given its role to inform the international community about the risk to rights when a crisis occurred.

The Special Rapporteur on violence against women, its causes and consequences noted that human rights considerations had often been neglected in humanitarian emergencies and relegated to a secondary role in relief operations. However, with an increased recognition of the key role of human rights in ensuring long-term and durable solutions, measures to ensure the protection of human rights were now increasingly integrated in preparedness, relief, recovery and reconstruction efforts. The special procedures had consistently stressed that the protection of all human rights was crucial for effective relief and sustainable recovery and called for enhanced protection and the integration of a human rights approach in relief, recovery and reconstruction efforts through mechanisms that adequately prioritised at least minimum levels of food, water, sanitation, education, health and housing for all, in particular for the most vulnerable.

In the aftermath of the Asian tsunami and the earthquake in Haiti, the special procedures had drawn international attention to the human rights dimension of relief and rehabilitation efforts and highlighted the particular vulnerabilities faced by women and girls. Particular reference was made to the work of the Special Rapporteur on the right to education, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, the Representative of the Secretary-General on the human rights of IDPs and the Independent Expert on the situation of human rights in Haiti. Reference was also made to a joint statement on Haiti, which expressed concern about the rise of violence against women, particularly rape and domestic violence in IDP camps and elsewhere, and the continued problems in providing water and sanitation facilities to the affected population, which had rendered women and girls more vulnerable to sexual assault.

Highlighting the differential impact of complex humanitarian emergencies and natural disasters on men and women, the violence against women mandate had advocated for gender-sensitive humanitarian assistance. This was particularly important in the aftermath of an emergency as pre-existing vulnerabilities and patterns of discrimination were often exacerbated. The Special Rapporteur argued that humanitarian responses could be more efficient when opportunities for positive change in gender roles, created or reinforced by crisis situations, were enhanced and sustained during and after emergencies. The importance of projects that combined protection and relief with an opportunity to collect data on violence against women; provide medical, psychological and legal assistance; and create work and livelihood opportunities for women was highlighted in this regard. The Special Rapporteur also emphasized the importance of the full participation of women in the management of relief, recovery and reconstruction efforts.

The Director of UNHCR’s New York Office noted that forced displacement was both a result and a reflection of the breakdown of human rights protection, particularly during humanitarian emergencies. Examination of reasons for flight was telling of the rights violations contributing to a conflict, and the issues to be addressed for sustained interventions and for durable solutions to be found.
UNHCR operated in 120 countries globally and led the ‘Protection Cluster’ in 20 operations. There was solid cooperation with the special procedures with regard to forced displacement and an effective partnership had been forged with the Representative of the Secretary-General on the human rights of IDPs. Best practice examples were provided of three main areas of interaction with the Representative of the Secretary-General: collaboration on policy and standard-setting on issues related to IDP protection and the provision of legal and protection advice to UNHCR in recent emergencies; collaboration and coordination of training activities for those engaged in emergency settings; and cooperation on efforts in particular countries, including in emergency situations. Mr. Janz also highlighted UNHCR’s efforts to facilitate the work and field missions of the Representative of the Secretary-General, as well as the direct support provided by the Representative of the Secretary-General to UNHCR and ‘Protection Cluster’ country activities, particularly on aspects of standards and national law and policies.

Despite such examples, much remained to be done to meaningfully utilize the range of special procedure mandates in humanitarian emergencies. While human rights mainstreaming had changed the work of humanitarian organizations – linking emergency responses to human rights through the participation of various groups in programming processes, linkages with the special procedures remained rare. Mr. Janz cautioned, however, that for some violations identified by UNHCR and other actors during emergency responses, such as sexual violence, advocacy on such issues could compromise the delivery of life-saving assistance. This perhaps accounted for the hesitation of some humanitarian actors to collaborate more closely with the existing human rights mechanisms. Too often, agencies delivering emergency assistance did not have a clear channel for transmitting information about human rights violations, for which they did not have a mandate to act. In such cases, the special procedures could be more often engaged to utilize the tools available to advocate for improvements with the concerned governments and to report - through an agreed mechanism - on human rights issues during the emergency phase. Additionally, one clear area in which the special procedures could enhance the response to humanitarian emergencies was in the area of land, housing and property rights. There was evidence showing much room for improvement in addressing these rights, from the emergency phase through to post-conflict and development. Failure to do so often led to protracted situations of displacement, otherwise referred to as “warehousing” displaced populations, or even back into conflict. Better cooperation with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living was therefore not only desirable, but necessary to bring about rights-based solutions.

In his conclusion, Mr. Janz highlighted the need for the UN system to work together to ensure that information available on human rights violations translated into action in preventing and addressing such violations, especially during humanitarian emergencies.

Quoting the President of Caritas Haiti, the representative of CARITAS Internationalis said that the expression of charity in emergency situations went hand in hand with swiftness, respect for the dignity of the beneficiaries, accountability, professionalism and heartfelt care. This translated into recognising that there were more, less obvious needs that should be found and addressed without hesitation or delay. Humanitarian emergencies provided an opportunity to face up to challenges that may have existed and may have been ignored for a long time. Whereas humanitarian actors subscribed to “R2P” – responsibility to protect, their work should
be guided by what he termed as “R4P” – respect for people. This entailed attaching themselves “in real time” to persons affected by the emergency and building human relations with them. Humanitarian actors should establish a direct relationship, based on respect and trust, with the affected population in order to effectively address protection needs. This relationship was not automatic but must be cultivated deliberately. When strong human relations were not established with the local population, risks of failure multiplied exponentially.

Mr. Donnelly underlined the importance of human rights at all stages of humanitarian response and policy-making. In this regard, the office of Caritas Internationalis in Geneva worked closely with OHCHR, UNHCR and other agencies and ensured that its human rights activity flowing from Geneva and from its headquarters in Rome as well as from its operations on the ground was applied in its interaction with humanitarian agencies in New York. If human rights were not integrated into humanitarian response from the start, vulnerabilities multiplied. Humanitarian actors could not and should not be silent about human rights issues. Human rights should be absolute and unconditional. Mr. Donnelly called for greater consultation and better monitoring to ensure the protection of human rights in humanitarian emergencies. Patterns of discrimination, risks and fears of affected populations must be confronted.

In concluding, Mr. Donnelly stated that effective humanitarian response required genuine partnership and consultation, including with special procedures, before, during and after an emergency. He also underscored the importance of using lessons learnt about human rights violations in the last 62 years to save more lives in emergencies.

The representative of the IRC spoke of the compartmentalization of human rights and humanitarian affairs - with actors in both areas working separately. The primary mandate of relief agencies operating in humanitarian emergencies was to provide urgent assistance to people in need. This typically involved providing food, shelter, water, medical care and other essential and lifesaving services. The physical and legal protection of civilians was often regarded as subordinate to these commitments, and human rights protection was often seen as at odds with the provision of humanitarian assistance. Yet, humanitarian emergencies were, in essence, protection crises. Without addressing human rights concerns, it was not possible to transform the conditions that would have led to a humanitarian emergency in the first place.

Mr. Martone noted that human rights organizations and humanitarian assistance agencies interacted only accidentally or socially, despite the countless situations where both simultaneously operated. Relief organizations were, however, beginning to consider the integration of human rights and protection issues. UNHCR, the Inter-Agency Standing Committee (IASC) and the International Committee of the Red Cross (ICRC) had all published practical field guides related to protection; the IRC and other NGOs had established departments with a mandate to address advocacy, public policy and protection. Considering the frequency, duration and severity of human rights abuses, it was not a question of whether relief agencies addressed the issue of human rights protection, but rather to what extent and how they did so. Mr. Martone also spoke of the myth of neutrality – noting that relief organizations had pervasive concerns that the public denouncement of human rights abuses in a host country would result in their expulsion, put at risk the security of their staff, and incur bureaucratic penalties. Mr. Martone asserted that humanitarian actors needed to increase advocacy on
human rights issues. Advocacy with intergovernmental bodies, in particular the Security Council, was of great importance. In his view, humanitarian neutrality – interpreted to mean not taking sides in hostilities or engaging in political, racial, religious or ideological controversies – in no way justified a neutral stance towards suffering or the abuse of basic human rights. Humanitarian actors were beginning to promote a renewed emphasis on the principle of impartiality, which may prove a more enduring guiding principle for humanitarian action.

The challenge was to act in a way that upheld humanitarian values, while simultaneously standing up for human rights. The ‘protection gap’ must be closed. There were practical and effective approaches that humanitarian actors could successfully include in their field programs to protect the rights of populations they served. These included establishing information centers and legal aid services, liaison and ‘protective accompaniment’ and capacity-building for national NGOs, justice workers and district authorities. Resources could be pooled to support technical advisers for protection, human rights focal points and refugee ombudsmen. Affected communities should be sensitized and should participate in their own protection. Relief agencies worked in settings where the scope and scale of human rights violations demanded a deliberate response. Their workers were in direct contact with the effects of human rights abuses. The monitoring of human rights violations, alerting the public and media, training public officials in human rights principles and educating communities about their rights should become a central element of relief assistance interventions.

During the interactive dialogue, a representative of the European Union delegation addressed the status of humanitarian reform and questioned whether there was scope for further engagement and dialogue between the special procedures and humanitarian actors. Questions were also posed on whether the special procedures addressed the activities of non-State actors. A representative of the United Nations Children’s Fund (working with the Special Representative of the Secretary-General on violence against children) affirmed the importance of strengthening cooperation between human rights and humanitarian actors, noting that there was no excuse to ignore human rights violations. The panellists were asked for suggestions on how to strengthen such cooperation, particularly in emergency situations. A representative of the International Network for the Prevention of Elder Abuse highlighted the particular vulnerabilities and risks faced by the elderly in conflict situations and as a result of natural disasters. It was noted that the elderly were often left behind in IDP camps with 40% remaining in such camps for over eight years. The importance of mainstreaming the rights of older persons in humanitarian response was highlighted.

In response, the representative of the IRC referred to the ‘compartmentalized’ humanitarian system with the cluster model creating distinct spheres of operation. The current system did not facilitate cooperation between human rights and humanitarian actors. With specific reference to Haiti, it was noted that while the international community provided a ‘robust and bold’ response, weaknesses in the leadership of the various clusters hampered efforts and prevented cooperation on common issues of concern. The representative of UNHCR noted that human rights and humanitarian actors were at times ‘oil and water’. He reiterated the importance of mainstreaming and embedding human rights concerns in all stages of humanitarian response. At an early stage, human rights concerns should be included in any
needs-assessment. Human rights professionals should also be included in any assessment and response mission. This would ensure that human rights issues were addressed in the evaluation of humanitarian emergencies. The Special Rapporteur on violence against women and children, its causes and consequences noted increasing cooperation by the special procedures - with information shared amongst mandate-holders to see how best to address or intervene on a particular issue of concern. Reference was also made to the increasing use of joint statements and joint country visits. Such cooperation allowed the special procedures to act as a system and facilitated greater cooperation with other actors, such as humanitarian agencies.

The representative of UNHCR noted that the situation of older persons in humanitarian emergencies was of concern to UNHCR and that solutions to address long-term residence in displacement camps did not often reach the elderly in time. Reference was made to UNHCR’s work with the Committee on the Elimination of Discrimination against Women (CEDAW) on the relevance and applicability of the CEDAW Convention on women, including older women, in situations of displacement, asylum, return, (re)integration or statelessness. Reference was also made to the Committee’s work on a draft general recommendation on older women. The representative of CARITAS Internationalis affirmed the importance of ensuring attention to vulnerable groups, in particular children and the elderly. CARITAS Internationalis had a strong advocacy profile and had consistently drawn attention to sexual and gender-based violence when reviewing crisis situations. The organization regularly raised this issue at briefings with the IASC and with the Representative of the Secretary-General on the human rights of IDPs. The Special Rapporteur on violence against women, its causes and consequences made a case for making humanitarian response “transformative” by making sure that the post-crisis conditions were substantially better than the pre-crisis conditions. In this respect, the Special Rapporteur highlighted the importance of examining pre-existing inequalities, which were in the ‘continuum of violence’.

The DHC noted that the special procedures covered the activities of non-State actors. More generally, the human rights machinery and humanitarian actors needed to engage with non-State actors, particularly to address human rights violations. In closing, the DHC reiterated that the special procedures were the ‘eyes and ears’ of the human rights system. They were ‘nimble’, flexible and could react quickly and respond in real time. This allowed the special procedures to cut across compartmentalization in the humanitarian systems. The DHC noted that the panel discussion was not only rich and thought-provoking, but also an important opportunity to share experiences and draw lessons for the future. It would therefore contribute greatly to the further integration of a human rights-based approach when developing and implementing strategies and programmes in the context of humanitarian assistance.

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