

From Durable Solutions to Emergency Response

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Based on a positive assumption regarding the outcomes of the round peace process that was scheduled in Doha/Qatar in April 2013, the Humanitarian Coordinator endorsed my deployment in September 2012. My terms of reference as Senior Protection Adviser (SPA) were to support the United Nations team to co-ordinate its strategy, planning and responses within the early recovery, durable solutions conceptual framework and “finalize” work on a plan of action for the existing Protection and Early Recovery coordination structure.

The Doha Document for Peace in Darfur (DDPD) provided a new framework and created new momentum in the transition from humanitarian assistance to recovery and development in the region. Consequently, the situation of Sudan end of 2012 has led to an increased emphasis by national and international actors on recovery, durable solutions and transition from relief to development, alongside continued humanitarian assistance. In response to these priorities, the Governance, Infrastructure, and Economic Recovery (GIER) Sector was established late 2012 under the leadership of UNDP to ensure adequate coverage of specific areas that play a crucial role in the transition from relief to development. Unfortunately, the faltering DDPD end of 2012 and new socio-economic problems created a climate of instability and lawlessness with high levels of displacement in the beginning of 2013. Coupled with the restricted access to area of displacement and the denial of the Government of Sudan (GoS) to recognize the global protection mandate provided to specialised agencies, it became an ambitious task to carry out in the political and security context of Sudan (particularly in Darfur) after the displacements of over 300 000 people in 2013. The volatile and sensitive oil-rich region of Abyei as well as the two other contested areas in northern Sudan—the states of Southern Kordofan and Blue Nile, part of the north further complicated the political settlement in Darfur. Combined with limited international protection and human rights personnel, few experimented protection-implementing partners¹, a complex African Union-United Nations hybrid peacekeeping operation, and cyclic emergencies in Sudan, my work had been re oriented to further support the Protection Sector in its emergency response in Sudan;

A. General political and security context

Of the estimated 7.5 million people that were residing in the five states of Darfur², more than 1.7 million were IDPs. In 2013, and after more than 10 years into the conflict and despite the peace negotiations, there was no comprehensive political settlement³. The Doha Document for Peace in Darfur (DDPD), signed in July 2011 by the Government of Sudan (GoS) and a Darfur rebel group, the Liberation and Justice Movement (LJM), has had little impact in the improvement of the security or human rights in Darfur. The Darfur Regional Authority⁴ (DRA), a body to implement the agreement had been set up but was not fully operational during the time of my deployment. Important to note that in May 2013, the state of emergency remained in place throughout entire Darfur, giving to governors the authority to administratively detain people indefinitely without judicial review. Not to mention the several constrains within the justice system and legislation that provides immunity

¹ In 2009, 13 aid organizations from Sudan's war-torn Darfur region were de registered from the Sudan Humanitarian Aid Commission immediately after the decision of the ICC to issue an arrest warrant for the President of Sudan. Major organizations were requested to leave the country: Oxfam, Care International, International Rescue Committee, Save the Children, cutting by half the humanitarian capabilities in the Darfur region.

² On January 2012, Sudanese President issued decree creating two new states and appointing new governors in the country's western region of Sudan. The recommendation to divide Darfur into five states was first adopted by the 2008 Darfur People Conference in the Qatari capital of Doha, which hosted the peace talks that led to the signing of the DDPD.

³ Still valid nowadays

⁴ Dr. Eltigani Seisi was named as the DRA Executive Organ Chairman in September 2011 and the authority assumed full function in February 2012. The DRA Council, established in October 2012, operates as a supervisory body to monitor and organise the DRA's substantive competencies;

from prosecution to security personnel for actions undertaken while on duties. Holding perpetrators of human rights violations accountable in this particular context remained extremely challenging. The assassination of the leader⁵ of one splinter group in May 2013 demonstrated the fragmentation of the rebel movements with hardliners opposing the decisions of the historic movements to join the peace process. This phenomenon is still reflected nowadays, in a parallel division of the civil society and contributed to deteriorate the security situation. Coupled with the increase incidence of inter-tribal clashes, intensified movement of Sudan Armed Forces (SAF) and rebel groups, the spread of small arms and light weapons in Darfur, it represented a very serious threat to the DDPD process and social coexistence in Darfur.

In 2013, from the political side, non-signatory rebel groups including Sudan Liberation Army (SLA) and Justice and Equality Movement (JEM) joined with SPLA-North in a national coalition, known as the Sudan Revolutionary Front (SRF) that regularly clashed with SAF both in Darfur and along the Sudan/South Sudan border areas since 2012. Clashes between rebels and government forces, and government bombing of rebel-held areas, continued in all the Darfur states with the exception of West Darfur. From September 2012 until May 2013, fighting between government-aligned militia groups and rebels near Hashaba, Jebel Amir, Golo - North Darfur, Umm Dukhun – Central Darfur, Ed Elfursan, Katalya – South Darfur and Labado, Muhajeria – East Darfur, led to the death of hundreds of civilians and the displacement of more than 300 000 IDPS⁶. Continued fighting between the SAF and armed opposition groups persisted and underscored that there remained widespread need among people in the region, particularly for protection during conflict. The challenging operating environment for humanitarian actors, including a broad range of constraints on access to people in need has continued all along 2013.

Attempts to provide assistance in Darfur had created frustration among the humanitarian community; Populations displaced or affected required special attentions, especially women, children, disabled and the elderly. The strong concerns, particularly those related to security, provision of basic services, justice, reconciliation and land occupation, lawlessness and insecurity persisted and had seriously hampered the work of the peacekeepers, united-nations agencies and aid groups. The Sudanese government continued to deny peacekeepers from the United Nations-African Union hybrid Mission in Darfur (UNAMID) and others humanitarian missions access to much of Darfur. Armed gunmen regularly attacked and killed peacekeepers, abducted UNAMID and humanitarian staff and frequently carjacked vehicles.

During my mission, both regional and national authorities did not show a strong commitment to ending impunity and have failed to address gross human rights violations and abuses committed in Darfur. Threats against the civilian population remained tense in certain parts of Darfur impacting severely their livelihood especially for those more vulnerable (children, women, elderly and the disable). Despite such restrictions, report on the government's arbitrary arrests and detentions of real and/or perceived opponents as well as serious patterns of sexual violence and recurrent violations by all parties to fundamental human rights were regularly reported.

Competition between communities in Darfur over limited or strategic⁷ resources was one factor that also contributed to the intensification of violence. Other factors included the prevalence of small arms and light weapons among the civilian population, and absence of accountability for violent crimes and prevailing mistrust between communities. The hope for improvements in the Sudan's economic situation might have helped alleviate a source of resource-based conflict. Equitably managed access to land and other natural resources would have nevertheless remained an essential element of sustainable peace in Darfur, as would strengthened rule of law, the disarmament of militia groups and reconciliation between communities.

⁵ The leader of JEM-Bashar, Mohamed Bashar, and his deputy, Suleiman Arko, were both killed by fighters of the Justice and Equality Movement (JEM) led by Gibril Ibrahim on May 12 near the Chadian-Sudanese border and it is considered as an act challenging the international community which sponsored the agreement.

⁶ OCHA, Sudan: Darfur Population movement overview, Jan-May 2013;

⁷ In May 2013, an inter-tribal conflict between the Aballa and Beni Hussein for the control of a Gold Mine Area (Jabel Amer - North Darfur) was one of the typical example of the ethnic polarization which have seen the burning of over 150 villages, the killings of hundreds and the displacement of at least 150,000 people;

Considering the particularity and specificity of this environment, Darfur remained a protection crisis characterized by large scale displacements, insecurity and localized conflicts between Sudanese armed forces (SAF) and rebel groups in one hand and between tribes on the other hand. The continuous restrictions on humanitarian agencies and the political agenda/pressure to shift from humanitarian assistance to recovery and development presented a risk that the urgent humanitarian and protection related needs in Darfur would become, if not properly tackled, another forgotten crisis.

B. The particular conception of durable solutions in Darfur

Over 3.55 million people⁸ required continued humanitarian assistance, including 3.2 million who were receiving some form of food aid. This included more than 1.7 million IDPs living in camps with the 300 000 newly displaced by violence in the first half of 2013, the residents and nomads estimated at 1.8 million in Darfur. Access constraints linked to conflict, insecurity and administrative impediments have reduced the presence of humanitarian actors on the ground, preventing much-needed comprehensive assessment of humanitarian and protection needs as well as a better understanding and in-depth analysis of the impact of humanitarian operations. Insecurity, displacement, lawlessness and to a certain degree the climate of impunity affected access to livelihood opportunities in Darfur.

IDPs were present in all five Darfur states⁹, living in camps and mixed settlements. Most of the largest IDP camps in Darfur were located near the main towns of Nyala, El Fasher, Geneina and Zalingei and an evident trend of increased urbanisation was happening. In 2013, it was estimated that there were more than 338 IDP locations across the Darfur region with over 95 recognize IDPs Camps by the Government of Sudan (GoS), the majority of which were located less than 60km from the area of origin of those displaced. In the meantime and despite the insecurity in some parts of Darfur, UNHCR verified a total of 19 805 new voluntary individual returns to various part of Darfur during the first quarter of the year 2013.

Though, the humanitarian community was committed to delivering timely and effective assistance to people in need in Darfur, agencies and organizations involved in the humanitarian response continued to face a series of challenges to the effective delivery of assistance. Principally access to affected populations continued to be a major challenge in Darfur all along 2013, especially for the Protection Cluster which faced systematic restrictions or constraints on reaching people in need since it was viewed by the Government of Sudan (GoS) and State authorities as engaging on sensitive issues¹⁰. Restricted humanitarian access, due to conflict-related security concerns and GoS regulations, especially in certain parts of Darfur has seriously affected the emergency humanitarian response of many cluster sub working groups in Darfur including the Protection Cluster.

In this fragile and volatile context, the search for durable solutions was one of the key priorities of the government of Sudan as presented in the Humanitarian Assistance Strategy in Darfur (November 2010) which stresses the need for a shift from emergency assistance to recovery and long term interventions. The will to move from one phase to the other one had to be carefully planned so as to ensure that humanitarian needs were not underestimated. The call was for a continuum approach, in which humanitarian interventions occur simultaneously with developmental interventions according to the different needs of the population throughout the large and diverse region of Darfur.

Even if in some cases, the international community had taken on a collective and complementary protection responsibility in situations where states were unable or unwilling to safeguard the rights of their citizens, it was important to note that States remained ultimately responsible for the protection of persons within the

⁸ Almost half of the total population living in Darfur.

⁹ The estimated number of IDPs in the states is: 455 000 in North Darfur; 584 000 in West Darfur (including Central Darfur) and 707 000 in South Darfur (including Eastern Darfur).

¹⁰ Mid April 2013, all travel permits for UNHCR staff based in Al Fasher/North Darfur were obstructed by GoS, depriving UNHCR staff including the SPA from traveling to Al Fasher Darfur; The travel permit situation was resolved the second week of September and travel permits for North Darfur were granted until the end of 2013.

territory of their jurisdiction. Consequently, Sudan National government had the primary responsibility for the security of all its citizens, including IDPs. In a positive step, Sudan government had incorporated the Guiding Principles into its national legislation in 2009. By doing so, it recognized the civil and political, as well as economic, social and cultural rights of the country's internally displaced persons. It strove to promote voluntary settlement and reunification of IDP families, and involve affected groups and communities in the planning of programs and projects. All levels of government – from the federal to the local level were responsible for the effective fulfilment of guarantees enumerated in the national policy. A High Committee was tasked with the planning for the protection of, and assistance to, those displaced by conflict, violations of human rights, and both natural and man-made disasters.

The policy covered all phases of displacement, and all actors involved in the planning of projects and programs that address IDPs' welfare. Other provisions include:

- Recognition of the right to freedom of movement;
- Acquisition of identification documents and papers, as well as land possession certificates;
- Recognition of the right to work;
- Recognition of the principle of voluntary return;
- Recognition of the right of IDPs to equal participation in public affairs;
- Community involvement in planning, implementation and evaluation of resettlement activities and programs;

The main concern was the very restrictive interpretation of the 1998 Guiding Principle on Internal Displacement in a way that deprived IDPs from the full set of rights they were entitled to: through the promotion of reintegration as the only possible option, the government was seeking to establish sustainable peace and development programs with the hope that it would reduce relief dependency and encourage self-reliance. This misinterpretation was thus reflected in the UN cluster mechanism where a return and reintegration working group was established eluding the two other options for IDPs¹¹.

On one hand, the durable solutions framework unambiguously promoted three types of options to internal displacement: return to the place of origin, local integration in the areas in which IDPs initially move to or settlement in another part of the country. In order to be considered durable, three additional elements had to be considered: long-term safety and security, restitution of or compensation for lost property, and an environment that sustains the life of the former IDPs under normal economic and social conditions.

On the other hand, donors' policy and specific agenda compromised protection work in Darfur since there was a strong political pressure to shift/transition from humanitarian assistance to recovery/development agenda (some donors willing to play down the economic and security problems faced by IDPs in order to support IDP/refugee returns) which obviously conflicted with the durable solution framework.

The prospects for protecting IDPs in Sudan are greatest, at least on paper but conflicting political agendas were limiting the full implementation of the durable solutions framework. In many conflicts and Darfur is one of the many examples, laws are frequently broken by all sides. In many cases, the SAF, rebel groups or tribal parties to the conflict were the authors of the displacement, and did not have the will and/or capacity and resources to assist and protect the IDPs.

Since one of the consequences of displacement was often the breakdown of community structures and hence traditional forms of protection; this left IDPs even more vulnerable to abuse and to violence. The challenge therefore, was how to orientate their humanitarian assistance to address the protection gap caused by the grave violations of humanitarian law and to ensure that internally displaced persons could still realise their full rights as civilians in a conflict.

Moreover, lack of access in areas of insecurity was one of the major concerns in Darfur. The constant challenge of protecting IDPs in such environment was of great concern. Even the UNAMID mission with a

¹¹ Local integration in the place of displacement, and settle elsewhere in the country.

mandate under chapter VII¹² had limited or restricted access in areas where violence had been extreme. For many national organizations, protection was a new field of activity; shifting from service delivery to a rights-based approach was a challenging task. In contrast to the provision of material assistance, protection work is multi-faceted. Often it involves advocacy with warring parties to respect international humanitarian and human rights norms. But it also has implications on how humanitarian assistance is provided, in ways that minimise vulnerable people's risks to new or further violation.

To this end, it was an imperative that Protection work in Darfur further involved the people in need of protection themselves by enhancing the Protection Community Based concept in sensitive and hot spots areas identified. By doing so, communities were empowered to achieve their rights with safety and dignity. It engaged crisis-affected communities and the humanitarian actors seeking to assist them, in identifying the protection risks of greatest concern to the community, exploring the causes and consequences and reflecting on existing prevention and response strategies.

Conclusion and Key Recommendations at the end of the mission

More than ten years into the conflict, the primary focus of discussions between the international community and GoS continued to be concerns over insecurity and humanitarian access to UNAMID and humanitarian organizations to areas most affected by conflict delaying the critical themes of early recovery, reconstruction and development needs.

Improving security, livelihoods, services, access to justice and respect for human rights were a prerequisite to the implementation of the durable solutions framework. To this end, predictable, and sustainable humanitarian access to affected populations was fundamental in order to assess humanitarian needs and to conduct the necessary surveys to gauge the intentions of IDPs with regard to durable solutions options. If guaranteed by GoS and main opposition armed groups, this crucial phase would have been determinant to the emergence of an enabling environment that in turn would have allow hundreds of thousands of IDPs to decide and choose the options they were entitled to. Combined with an extended and inclusive negotiated peace agreement, comprehensive durable solutions could have ensured sustainability and durability of the solutions attained.

Unfortunately, these preconditions were not gathered to permit the drafting and implementation of a comprehensive durable solutions strategy for IDPs that could have significantly contributed to bring the conflict in Darfur to a peaceful and sustainable conclusion¹³.

As of February 2015, the humanitarian environment in Sudan had further deteriorated after the end of my deployment, with regular and new, conflict-induced internal displacement in Darfur. About 400,000 new internally displaced people (IDPs) were registered between January and August 2014 in the country. According to UN figures, 6.9 million people were in need of humanitarian assistance in Sudan.

¹² Chapter VII of the Charter of the United Nations provides the framework within which the Security Council may take enforcement action. It allows the Council to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" and to make recommendations or to resort to non-military and military action to "maintain or restore international peace and security".

¹³ Despite the volatile and fragile security environment the Darfur Regional Authority (DRA) was planning new registration exercise of the internally displaced persons (IDPs) in different camps in Darfur and Sudanese refugees in Chad, to be used for return and repatriation purposes only. The Protection Sector with its limited presence had to ensure that the conditions to return respect the principles of voluntariness, security and dignity and present the different options in regards to return, local integration or resettlement.