

The next HCR must refocus on protection

by Ed Schenkenberg van Mierop

At the end of this year, a new High Commissioner for Refugees (HCR) will be appointed to succeed Sadako Ogata who has led UNHCR for the past ten years. Traditionally the selection process for HCRs has been highly politicized and involved back-room discussions between governments. The independence of the agency would be greatly enhanced by a more open process not involving political criteria. The next HCR should be chosen on the basis of his/her ability to lead UNHCR to meet the challenges facing the refugee protection system.

One of the biggest challenges is to ensure respect for, and renewed commitment to, the universal principles of refugee protection. On the eve of the 50th anniversary of the 1951 Convention relating to the status of refugees, a number of Western governments have openly questioned its validity and argued that it should be modernized in order to be able to respond to today's migration flows. There is a current tendency to blur the principles of refugee protection with debates about migration policy. The next HCR must not shy away from reiterating the point recently made by UNHCR's Director of International Protection that "asylum is a protection tool, not a migration tool". The new UNHCR head must push governments to reaffirm the centrality of the Convention in refugee protection. S/he should take the lead to ensure that refugee protection is not subsumed by the migration considerations of governments.

Another major task facing the next HCR will be to restore the agency's image and to reassert its mandated role to protect refugees. During the 1990s, UNHCR tended to focus on large-scale relief operations, rather than protection. UNHCR's 'in-country operations' in the former Yugoslavia were unprecedented; the relief provided was enormous but UNHCR was unable to provide protection. In eastern Zaire, UNHCR has argued that the separation of refugees and

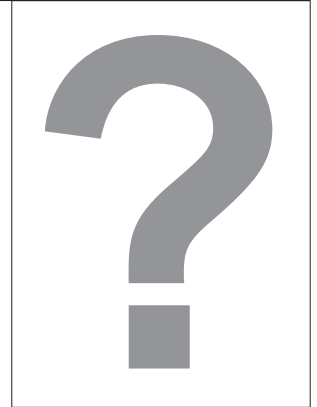
'genocidaires' goes beyond its capacity but that it has to be present to provide assistance.

While UNHCR is not the only agency able to provide assistance to refugees, it has a unique mandate to provide protection. The agency needs to refocus on this aspect of its role. Related to this reorientation is the need for UNHCR to define its role in the protection of IDPs.

UNHCR frequently finds itself in a quandary. Many of the governments responsible for violations of fundamental refugee principles, such as policies infringing the right to seek asylum, are also its donors. The agency seems to have accepted or tolerated such violations out of a fear that funding from some governments may be jeopardized. All too often political considerations, rather than consequences for refugee protection, have driven UNHCR policy making. UNHCR has not risen to the challenge of 'biting the hand that feeds'.

In other parts of the world, it has also felt the pressures of governments tired of hosting refugees within their borders. UNHCR has too often become an accomplice in violating the Convention. On several occasions it has assisted governments to carry out forced return operations. In order to maintain a presence with refugees after their return UNHCR has responded to state pressures by defining new categories such as 'imposed return' or 'return under less than optimal circumstances'.

The protection of refugees, however, inherently implies taking sides with refugees, not with governments. Taking positions contrary to those of governments should not be perceived as being



diametrically opposed to maintaining access to refugees.

The tasks ahead will require strong and principled leadership on the part of the next HCR. When the agency's ability to fulfil its protection role is compromised, the next HCR must not be afraid to suspend operations.

Although tradition dictates otherwise, it should not matter whether or not the person comes from a donor country. Instead of such political considerations, the person chosen should have considerable experience in human rights, protection issues and humanitarian action. The person should also have a proven track record of working well with NGOs, given the increased scale of their partnership with UNHCR.

The selection process needs to be opened up to public scrutiny and accountability. Involving NGOs in the process is one way of making sure that the next HCR is chosen on the basis of ability to do the job and not as a result of murky political deals.

*Ed Schenkenberg van Mierop is Coordinator of the International Council of Voluntary Agencies (ICVA - www.icva.ch), a Geneva-based network of more than 70 human rights, humanitarian and development NGOs.
Email: ed.schenkenberg@icva.ch*