

# Refugees in all but name?

## Should UNHCR's mandate offer protection to IDPs?

by Maria Camilleri

*UNHCR's mandate does not specifically refer to IDPs per se – hardly surprising, as the IDP concept was not in existence when the agency was established.*

Since the General Assembly approved UNHCR's establishment, it has on several occasions passed resolutions extending UNHCR's mandate to facilitate assistance for people displaced within the region of their own domicile.

When the then UN Secretary-General invited UNHCR in 1991 to "assist in bringing relief to needy internally displaced persons affected by the conflict" in Yugoslavia, this was justified in terms of "helping to avoid the further displacement of population." Kofi Annan subsequently noted that providing protection and development support for IDPs is "a humanitarian issue that falls between the gaps of existing mandates of the different agencies."

While the Geneva Conventions of 1949 and the additional protocols of 1977 are the primary basis by which IDPs are encompassed within the sphere of international humanitarian laws, these regulations were established for people in conflict situations during an era when conventional war was the standard. Yet the current IDP crisis results from conflicts that are beyond the boundaries of previous rules and laws. Since the end of the Cold War we have seen mass displacement carried out by the very governments supposedly responsible for the protection and welfare of their citizens. Subject to harassment and human rights abuse, IDPs are often utilised in conflict as a shield for insurgent activities.

Constrained by its formal mandate, UNHCR is unable to render expeditious, long or short-term aid to IDPs

without specifically receiving temporary extensions of its mandate from the UN. While its mandate is specifically of a 'non-political' nature, UNHCR's efforts to provide effective protection put the agency into direct conflict with government entities. Nowhere was this better exemplified, or the consequences so grave, as in 1995 when Yugoslavia enabled Serb forces to flout the UN Security Council Resolution establishing Srebrenica as a safe haven and to subsequently murder 8,000 Muslims.

Since his mandate was established in 1993, Francis Deng, the Secretary General's Special Representative on Internally Displaced Persons, has shown that IDP populations comprise a unique, and often marginalised, section of war-affected populations and that gaps and grey areas in international humanitarian law prevent the international community from meeting their particular requirements.

Are we any closer to moving towards the goal set out by Sadako Ogata in 1994 that we need convergence of refugee law, international human rights law and international humanitarian law in order to better protect the internally displaced? Momentum seems to have been lost. Ruud Lubbers, the current High Commissioner, has suggested that due to severe funding constraints and donor fatigue UNHCR should focus on its traditional role, rather than pursue the option of becoming the institu-



tional focus of IDP support and protection.

In former Yugoslavia, Western governments assigned UNHCR funds to support IDP populations not from purely humanitarian motives, but to encourage containment (refugee prevention) by assisting the dispossessed within their own territory in order to stop them adding to the already heavy refugee and asylum flows. If UNHCR were to be generally entrusted with the overall care of IDPs, it would have an international obligation to render assistance prior to the fact and avoid as many refugee situations as possible. This obligation to the international community should override the lack of any formal mandate and justify UNHCR's mission within a sovereign territory.

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