

UNHCR: protection and contemporary needs

by Bill Clarence

UNHCR's institutional response to the protection of internally displaced persons (IDPs) is still seriously inadequate.

Since the 1970s, successive High Commissioners have recognised IDPs as a group with similar needs to those of refugees. In Sri Lanka in the early 1990s, Thorvald Stoltenberg extended UNHCR's assistance and protection to IDPs who were on the fringe of or beyond UNHCR's official mandate. His successor, Sadako Ogata, not only endorsed the programme (which had been challenged during the interregnum before she took over leadership of the agency) but also issued a formal directive in which she described situations where IDPs were mixed with refugees as those where "UNHCR should consider taking primary responsibility for the internally displaced, weighing in each case the additional benefit of its

involvement in terms of protection and solutions".¹ Moreover, she subsequently drew attention to "the direct linkage between internal displacement and refugee flows, as the causes of displacement may be indistinguishable, and the only distinction being that the former have not crossed an international frontier."²

Why, with such positive attitudes towards IDPs at the top as well as in the field, has UNHCR's overall performance been so disappointing? UNHCR's reluctant and sluggish response to the challenge of IDP protection is but one aspect of its faltering response towards the changing face of global displacement and, more fundamentally, one

which reflects the general nature of international institutions, particularly their vulnerability to external pressures when called upon to act in politically sensitive areas.

The agency's founding fathers well understood the potential institutional pitfalls and decided that the protection mandate should be conferred upon the High Commissioner rather than the agency. This move has been fully vindicated. Without exception, High Commissioners have taken their protection responsibilities very seriously indeed, been able to exert international moral authority and, when necessary, been ready to take on governments to an extent which would have been unlikely if the agency had been structured differently. As a

result, international protection of refugees has been strengthened and extended throughout most of the world. Moreover, within the agency protection was officially established – and regularly reaffirmed – as the primary function of UNHCR's mandate.

UNHCR's founders could not have foreseen that this new agency – set up as a temporary three-year programme – would evolve into a top-heavy bureaucratic establishment. It is this bureaucracy that lies at the root of many of the agency's problems, particularly regarding protection. The agency is costly, complacent and too often indifferent to protection needs. Indeed, in practice protection too often tends to be regarded as a secondary rather than the primary purpose of agency activities and this has created an ambivalence which impedes the development of appropriate responses to changing international needs.

Collaborative Response and clusters

The more recently-established inter-agency Collaborative Response – under the aegis of the Interagency Steering Committee (IASC) – is also a heavily bureaucratic mechanism which has proved largely ineffectual on the ground.³ Over the past year, however, the usefulness of this interagency initiative has been improved by the publication of guidance notes for the Humanitarian and Resident Coordinators and other actors on the ground and the assignment of sectors of operational accountability to particular agencies. Responsibility for the protection, emergency shelter and camp management 'clusters' has been assigned to UNHCR.⁴ The revised interagency arrangements may indeed improve IDP protection on the ground in post-conflict conditions and in areas far removed from active hostilities – but will they survive the acid test of in-conflict conditions?

Securing people's physical safety is more of a challenge in protecting IDPs than refugees as IDPs are located (as are field staff) within or on the periphery of civil war zones. Although security in countries of asylum can also present challenges,

it is generally better than in civil war zones in countries of origin. The deployment of humanitarian fieldworkers in a war zone is only justifiable when the risks are judged to be manageable and significantly outweighed by the benefits but, despite the dangers, it remains an essential part of an effective IDP protection role. A professional mechanism to evaluate security, preferably in consultation with the International Committee of the Red Cross (ICRC) colleagues and other relief agencies on the ground, is therefore essential.

Working in war zones demands leadership on the ground with clear authority and coherent back-up to be able to take decisions rapidly. Under the revamped Collaborative Response, there are shared responsibilities and extended and varied reporting lines. UNHCR has overall responsibility for protection, emergency shelter and camp management but reports to local Humanitarian Coordinators and, in their absence, to Resident Coordinators and sometimes to Special Representatives of the Secretary General. They all have their own agendas and may be unwilling to have their relations with governments disrupted by potentially embarrassing protection issues.

The reality of conflict is often one of fragile ceasefires and faltering negotiations in which progress towards peace, or even substantially less insecure conditions, is halting and spasmodic. Ceasefires are violated, peace negotiations break down or are abandoned and relapses into open warfare are all too common. Sri Lanka is a notable case in point. An effective IDP protection role has to be sufficiently flexible to adapt from situations of conflict to the less unstable conditions of post-conflict – when the Guiding Principles could be directly applied – and sometimes back again to conflict.

Is UNHCR capable of reform?

For all its bureaucratic faults, historically UNHCR has been a success. It has achieved more than national governments ever could, whether acting alone or together, in many sensitive situations and

has assisted millions of displaced people. Its High Commissioners have vindicated the judgement of the founding fathers that a post with such attributes was essential for the integrity of international protection. Its Division of International Protection has developed exceptional professional capacity for setting, maintaining and promoting the extension of international standards. And on the ground, its field staff perform effectively in difficult and sensitive conditions. Such notable achievements could probably not be sustained if UNHCR were to be reorganised within a larger and more composite humanitarian and rights organisation.

The agency's formidable reputation was built upon a readiness and ability to respond effectively to international needs in forced migration. Now more than ever, given all the developments in this field in recent years, UNHCR has to meet the challenge to adapt – or face diminishing relevance. Those within the agency who for various reasons do not welcome change should face the fact that the international community will be unlikely to continue to pay for an institutional regime that continues to benefit only a relatively privileged category among the displaced, one whose numbers are indeed decreasing.⁵ The world still needs UNHCR – but as an agency which is a lot leaner and a lot keener to bring its protection mandate into line with contemporary needs.

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1. UNHCR's Role with Internally Displaced Persons, UNHCR IOM/BOM/33/93 (High Commissioner's emphasis).

2. Address to John F Kennedy School of Government, 28 October 1996

3. See Joel Charny, 'New approach needed to internal displacement', FMR October 2005 supplement www.fmreview.org/FMRpdfs/FMR24/IDP%20Supplement/08.pdf

4. See Tim Morris 'UNHCR, IDPs and clusters', FMR26 www.fmreview.org/FMRpdfs/FMR25/FMR2531.pdf

5. In early 2005, UNHCR accepted 19.1 million 'persons of concern', comprising 9.2 million 'mandate' refugees, 840,000 asylum seekers, 1.5 million refugee returnees, 1.5 million stateless persons, 5.4 million IDPs and nearly 600,000 others. However, the global figure for IDPs is put at some 25 million. (UNHCR Global Appeal 2006)