

the time being, whether turning the Guiding Principles into a binding UN Convention would be feasible or even desirable.

However, this does not mean that no steps to enhance the standing of the Guiding Principles should be taken. Several countries – including Angola, Burundi, Colombia, Peru, the Philippines, Sri Lanka and Uganda – have made explicit reference to the Principles in their national laws and policies on internal displacement. However, as encouraging as this development is, some of the resulting laws and policy documents have not clarified how the rather abstract general principles of international law articulated by the Guiding Principles should be translated into concrete action on the ground. I therefore plan to develop, in consultation with relevant actors, a manual that will provide law and policy makers with detailed guidance as to the content, institutional arrangements and

procedures necessary to make the Principles operational at the domestic level.

I welcome the UN Secretary-General's report *In Larger Freedom: Towards Development, Security and Human Rights for All*.<sup>5</sup> He emphasises that it is in each country's self-interest to address all situations of internal displacement effectively and thus urges Member States to accept the Guiding Principles on Internal Displacement as the basic international norm for protection of IDPs and commit themselves to promoting the adoption of these principles through national legislation. It is to be hoped that Heads of State and Government who will gather at the UN General Assembly in September 2005 will heed this call. This would certainly be an important step in strengthening the Guiding Principles as an important tool for advocating and strengthening the human rights of internally displaced people.

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3. Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, submitted pursuant to Commission on Human Rights resolution 2004/55, E/CN.4/2005/84, 31 Dec 2004, para 43.
4. See Walter Kälin 'How hard is soft law? The Guiding Principles on Internal Displacement and the Need for a Normative Framework' in *Recent Commentaries about the Nature and Application of the Guiding Principles in Internal Displacement*, Brookings-CUNY Project on Internal Displacement, April 2002.
5. [www.un.org/largerfreedom](http://www.un.org/largerfreedom)

## UNHCR: expanding its role with IDPs

by Roberta Cohen

*UNHCR is at a critical point in its 54-year history. Set up to protect refugees, it is now poised to take on a leading role in protecting internally displaced people.*

The Emergency Relief Coordinator, the heads of the major relief and development organisations, NGO umbrella groups and the Red Cross/Red Crescent movement – which together comprise the UN's Inter-Agency Standing Committee (IASC)<sup>1</sup> – on 12 September assigned the major responsibility for the protection of IDPs to UNHCR. The coordination and management of IDP camps and emergency shelter will also become UNHCR's responsibilities.

The new High Commissioner António Guterres is keen to meet the needs of IDPs<sup>2</sup>, while the international community turned to UNHCR because the Collaborative Approach in its current form has not succeeded in effectively addressing IDP protection needs. Just about every UN or independent evaluation has found protection to be the biggest gap in the international institutional response.<sup>3</sup> After visiting Darfur at

the end of 2004, the UK's Secretary of State for International Development, Hilary Benn, berated the UN for not adequately protecting IDPs and called for new mechanisms to do so.

UNHCR's long experience with uprooted populations and its comprehensive mandate, encompassing both protection and assistance, made it the obvious choice for taking the protection lead. Involved with IDPs since the 1970s it played a particularly prominent role in the 1990s in the area of protection, whether in the Balkans, the South Caucasus, Colombia or Sri Lanka. Walter Kälin, the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, supported UNHCR's taking on even more. In FMR 23 he noted that: "...UNHCR is the organisation with the most experience and capacity to protect and assist persons displaced by armed conflict who are in

camps or to organise IDP returns... it is difficult to understand why there should not be at least a presumption that the High Commissioner for Refugees should assume responsibility in such situations."<sup>4</sup>

### Areas of involvement

To take on a major role in IDP protection, UNHCR will need to define the scope of its activities. Internal displacement affects more than 40 countries. In deciding where to get involved and how, one point is clear: UNHCR must expand its presence in Africa. At present UNHCR is concerned with only 1.1m of Africa's 12-13m IDPs. Because protection is cross-cutting, UNHCR will also have to make sure to integrate it into the sectors led by other agencies, in particular food, health and recovery. It will have to pay special attention to returns. Both during and after returns home, IDPs can face protection problems. Many find their houses occupied by others or they may be subject to attacks, incited by ethnic or political animosities. UNHCR's greater involvement in monitoring and accompanying returns could



Youth at IDP camp,  
Bunia town, Ituri  
District, DRC.

help enhance security and also help overcome the tensions that arise when returning refugees receive seeds, tools and reintegration assistance from UNHCR but returning IDPs do not. Furthermore, it could bring home to UNHCR that returning refugees can easily become internally displaced, as has been the case in Afghanistan and Sierra Leone, when they are not sufficiently helped to reintegrate safely and effectively.

Camp management is another critical area where UNHCR's involvement could help increase protection, in particular by reducing rapes, abduction of children and assaults in overcrowded camps. In northern Uganda, where camps are poorly managed and UNHCR not involved, recruitment of children is widespread and HIV/AIDS incidence rates among the displaced are six times higher than the general population.<sup>5</sup> In Darfur, where camps have also been sorely neglected, rapes are regularly reported. IDPs who are not in camps – such as in Colombia – should also be able to draw upon UNHCR's protection expertise. UNHCR could furthermore play an important role in provision of emergency shelter. Although shelter is a basic component of the agency's protection of refugees, for IDPs it is “among the poorest addressed and most neglected aspects of humanitarian response.”<sup>6</sup> Large numbers of IDPs live for years in railway cars, containers, abandoned buildings, empty hospital rooms, collective centres and urban slums.

UNHCR will have to expand its view of protection. When UNHCR provides

protection to refugees, it basically defends refugees' legal right to asylum and *non-refoulement*. But when it comes to IDPs, they are in their own countries and should enjoy the same rights as other citizens. Although the Guiding Principles on Internal Displacement have acquired considerable authority, there is no internationally recognised legal agreement like the Refugee Convention on which to base activities for IDPs. In the case of IDPs, protection involves defending their physical safety and the broad range of human rights to which they are entitled and which encompass protection against displacement, during displacement and in return or resettlement. Tools for doing so can range from monitoring and reporting to developing protection plans for the different agencies on the ground, leading protection working groups to implement the plans, increasing presence in camps and areas of danger, evacuating persons at risk, advocating with government officials, promoting national responsibility and helping to develop national capacity, prodding UN senior officials and donor governments to intercede, accompanying returns and helping with reintegration and property issues. Engaging in such activities will require far greater attention to staff security since operating in countries of origin is a more dangerous undertaking for international staff than working in host countries.

In providing protection for IDPs, UNHCR will have to make sure that its activities do not in any way undermine its protection of refugees.

UNHCR has repeatedly stated that protection for IDPs cannot be at the expense of its basic commitment to asylum, which means it will have to be mindful when conflicts of interest arise between protecting people in their own countries and defending their right to seek refuge abroad. Indeed, governments reluctant to receive refugees have at times used in-country protection activities for IDPs as a pretext for denying asylum. But it should also be recognised that governments bent on containment will always find other reasons for closing their doors. Those who oppose most – if not all – UNHCR involvement with IDPs often confound the world's inhospitality to refugees with the greater attention being given to IDPs. But inhospitality to refugees has many other causes and should not be allowed to interfere with efforts to promote protection for the far larger numbers of people who remain uprooted within their home countries. In fact, countries of asylum might be more inclined to maintain their asylum policies if something were done to alleviate the suffering of IDPs. Both refugees and IDPs may fit into separate legal regimes but operationally it often makes little sense to distinguish between the two. As former Assistant High Commissioner Kamel Morjane put it, “It is often neither ethical nor practical to distinguish between human beings because of a border they may or may not have crossed.”<sup>7</sup>

In carrying out its new protection role, UNHCR will have to learn to navigate the UN's cumbersome collaborative system. In the Balkans in the 1990s, UNHCR was the ‘lead agency’ for refugees, IDPs and other affected civilian populations. But under the current system, the Humanitarian and Resident Coordinators (HC/RCs) lead and direct the collaborative response in the field. UNHCR must therefore report to them and will no doubt find, as did the OCHA-Brookings study, *Protect or Neglect*, that the majority of HC/RCs lack awareness of their responsibility to provide protection for the internally displaced and are reluctant “to advocate for the rights of the displaced in an effective and assertive manner.”<sup>8</sup> Indeed, many of them view protection and human rights activities as ‘political’, capable of undermining the provision of humanitarian relief and even of leading to their expulsion from the country.

Moreover, HC/RCs in many countries report to Special Representatives of the Secretary-General who easily put political concerns over humanitarian and human rights objectives.

Developing partnerships with other agencies engaged in protection, whether inside or outside the UN, will reinforce UNHCR's role. The Office of the High Commissioner for Human Rights (OHCHR), for example, recently set up a human rights monitoring programme in Nepal to focus on the human rights and protection of civilians, including IDPs. OHCHR should be encouraged to become more involved in IDP protection activities on the ground in different countries. UNICEF should also be encouraged to play more of a protection role given the plight of so many internally displaced children. In Uganda, tens of thousands of children are at risk each night from abduction and maiming, yet there are few international protection staff on the ground. Closer collaboration with UN peacekeepers will also be

needed since they are increasingly called upon to assume protection responsibilities for IDPs yet often receive little training in how to protect IDPs (and in Sierra Leone and DRC were implicated in the sexual harassment, rape and exploitation of internally displaced women and children).

Lastly, UNHCR will need to persuade donors to provide the resources to enable it to take on a greater protection role. Some donors in the past have resisted this. In 2002, for example, the US withdrew its support from a UNHCR programme to protect Angola's IDPs on the grounds that the agency should not use its limited resources on IDPs.

After many years in denial, the UN system has finally acknowledged the need to promote a more effective institutional response to the protection of IDPs. Giving the job to UNHCR has the potential to bring predictability and clarity to an area regularly described as the biggest

gap in the international response to IDPs.

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## National responsibility and internal displacement: a framework for action

by Erin Mooney

*National authorities have primary responsibility for protecting and assisting their internally displaced populations. But what, specifically, does this responsibility entail?*

The Guiding Principles on Internal Displacement set forth the rights of IDPs and the obligations of national authorities towards them. Less clear, however, has been what governments concretely can do to ensure that these rights are respected and responsibilities fulfilled. To help, a Framework for National Responsibility has been developed that identifies 12 key steps for governments:

### 1. Prevention

Governments have a responsibility to prevent conditions that might compel populations to leave their homes and, in particular, to protect individuals against arbitrary displacement. Cultivating an environment of respect for human rights is critical. Early warning and rapid response mechanisms also need to

be developed to protect populations under threat, whether from conflict, abuse or natural disaster. Where displacement proves unavoidable, national authorities have a responsibility to minimise its adverse effects, provide for the safety and well-being of those affected and ensure that displacement lasts no longer than absolutely necessary. Governments have a particular obligation to protect against the displacement of indigenous groups, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

### 2. Raise national awareness of the problem

When internal displacement does occur, a government's recognition of the problem and of its responsibility to address the problem provides

the basic foundation for an effective national response. In more than one case, a government has categorised IDPs as 'migrants', presumably to deflect attention from the involuntary nature of their movement and to avoid its responsibilities. Public pronouncements about the problem of internal displacement are therefore important. A government's acknowledgement and use of the Guiding Principles would signal its recognition of the special needs of IDPs as well as of its obligations to protect their rights. It would also be a means of raising awareness about the problem, building national consensus and promoting solidarity with the displaced.

### 3. Data collection

Credible information on the number, location and condition of the internally displaced is essential for designing effective policies and programmes to address their needs and protect their rights. Data must be disaggregated by age, gender