

PROTECT



or **NEGLECT?**

**Toward a More Effective
United Nations Approach
to the Protection of
Internally Displaced Persons**



The Brookings-SAIS Project on Internal Displacement

and



UNITED NATIONS

The UN Office for the Coordination of Humanitarian Affairs
Inter-Agency Internal Displacement Division

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AN EVALUATION

by

Simon Bagshaw

and

Diane Paul



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Cover photo: Internally Displaced Persons in Darfur, Sudan - 2004
Ton Koene/Medecins Sans Frontieres

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ABOUT THE AUTHORS

Simon Bagshaw is a Protection Officer in the Inter-Agency Internal Displacement Division of the UN Office for the Coordination of Humanitarian Affairs (OCHA) in Geneva. Prior to this, he worked for three years as a Senior Research Associate in the Office of the Representative of the UN Secretary-General on Internally Displaced Persons at the Office of the High Commissioner for Human Rights in Geneva. He has a PhD in law from the European University Institute in Florence. His thesis focused on the Guiding Principles on Internal Displacement, the first international standards for IDPs. He has also written several articles and papers on forced displacement issues, including on political participation and property questions.

Diane Paul is a consultant on human rights and humanitarian issues and has specialized in protection issues. She has played a central role in several major studies on protection. She was the principal author of the UN Inter-Agency Standing Committee publication, *Growing the Sheltering Tree: Protecting Rights through Humanitarian Action, Programmes and Practices Gathered from the Field* and the author of the Overseas Development Institute's paper, *Protection in Practice: Field Level Strategies for Protecting Civilians from Deliberate Harm*. Prior to working for over four years as a researcher on the former Yugoslavia for Human Rights Watch, she also worked with refugees as a delegate of the International Federation of Red Cross and Red Crescent Societies and conducted a study on field-level protection in Bosnia under the direction of the late disaster expert Fred Cuny.

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FOREWORD

One of the more daunting challenges of the 21st century is to provide protection to people uprooted within their own countries and at risk of starvation, physical violence, genocidal acts or other serious abuse of their human rights. Whether in Darfur in the Sudan, the Democratic Republic of the Congo, Somalia, Colombia, the Russian Federation, Myanmar, Nepal or dozens of other countries, reports from humanitarian organizations highlight the vulnerability of men, women and children uprooted from their homes and communities, deprived of food, medicine and shelter and subjected to armed attack, arbitrary detention, forced conscription or sexual violence.

Although primary responsibility for the protection of the internally displaced rests first and foremost with their governments, national authorities tragically often lack the will or the capacity to provide for their uprooted populations, and in failed states there may be no government at all. It is therefore a defining feature of human rights and humanitarian emergencies that governments turn to the international community for help. Displaced people in particular regularly appeal to the United Nations to provide them with material assistance and also to protect them from egregious human rights violations in their own countries.

Over the past decade United Nations agencies have become increasingly involved in providing food, medicine and shelter to displaced populations but have fallen short in assuring respect for their physical safety and human rights. To examine how the United Nations has been providing protection to the displaced and how to make that response more effective and meaningful, the Internal Displacement Unit of the UN Office for the Coordination of Humanitarian Affairs and the Brookings-SAIS Project on Internal Displacement dispatched a team into the field in 2003. After extensive field work, the team concluded that although considerable efforts have been made by the United Nations in a number of countries, overall the UN's approach to safeguarding the rights of the internally displaced has been largely *ad hoc*, driven more by the personalities and convictions of individuals than by an institutional, system wide agenda. Moreover, lack of political and financial support from both organizations and governments has worked to undermine staff efforts in the field.

Co-authored by Simon Bagshaw and Diane Paul, this study importantly presents an extensive set of practical recommendations for the United Nations, non-governmental organizations, donor governments and the diplomatic community for addressing the protection

problems of the internally displaced. It calls for more assertive advocacy on behalf of the displaced by both staff in the field and by senior officials at headquarters. It urges the creation on the ground of focal points and working groups on protection and the establishment of early warning systems and systematic monitoring and reporting procedures. It urges greater international presence in the field, especially outside of capital cities, and for the integration of protection concerns into the programs and plans of humanitarian, development, human rights, peacekeeping and political offices. It emphasizes the importance of strengthening local and national institutions to deal with displacement and of developing national laws and policies based on the Guiding Principles on Internal Displacement.

The recommendations present a formidable challenge to the United Nations and to governments but one that must be met. The UN must assume a leadership role in advocating for the protection of the displaced and in working with governments and others in the international community to safeguard the human rights of people caught up in rampages of violence and destruction in their own countries. Only through our concerted and collaborative efforts can we hope to contribute to the creation of a more effective international system for addressing the protection and assistance needs of one of the world's most marginalized people.

Walter Kälin, Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons

Dennis McNamara, Director, Inter-Agency Internal Displacement Division, UN Office for the Coordination of Humanitarian Affairs



In the former Yugoslavia Krajina Serbs in August 1995, on the road between the frontier post of Badovinci and the town of Sabac, fled carrying with them only bare essentials.

Photograph by Sebastiao Salgado.

ACRONYMS

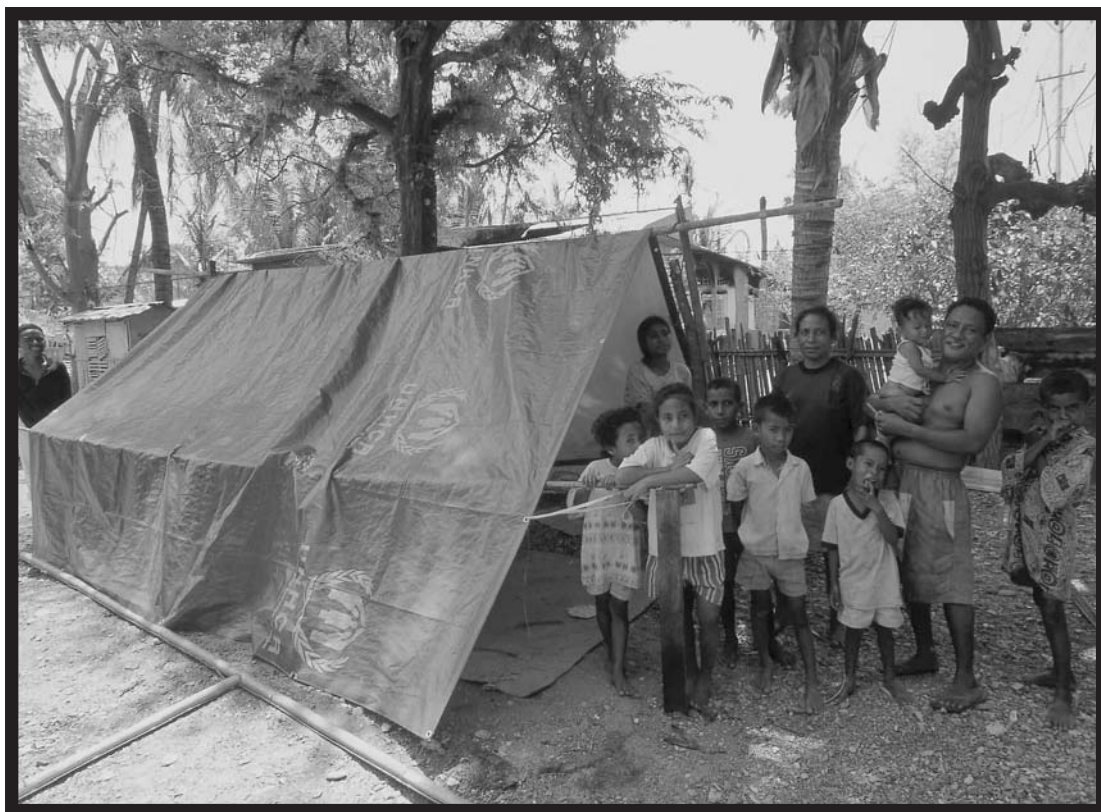
ACC	Administrative Committee on Coordination
AU	African Union
CCA	Common Country Assessment
CEB	Chief Executives Board
CAP	Consolidated Appeals Process
CHAP	Common Humanitarian Action Plan
COE	Council of Europe
DPA	Department of Political Affairs
DPKO	Department of Peacekeeping Operations
ECHA	Executive Committee on Humanitarian Affairs
ECOSOC	Economic and Social Council
ECPS	Executive Committee on Peace and Security
ERC	Emergency Relief Coordinator
HC	Humanitarian Coordinator
HIC	Humanitarian Information Center
IASC	Inter-Agency Standing Committee
ICC	International Criminal Court
ICRC	International Committee of the Red Cross
ICVA	International Council of Voluntary Agencies
IDP	Internally Displaced Person
IFRC	International Federation of Red Cross and Red Crescent Societies
IMF	International Monetary Fund
InterAction	American Council for Voluntary International Action
IOM	International Organization for Migration
NGO	Non-governmental organization
NRC	Norwegian Refugee Council
OAS	Organization of American States
OCHA	Office for the Coordination of Humanitarian Affairs
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organization for Security and Cooperation in Europe
PRSP	Poverty Reduction Strategy Paper
RC	Resident Coordinator
SRSO	Special Representative of the Secretary-General
UNDAF	United Nations Development Assistance Framework
UNDG	United Nations Development Group
UNDP	United Nations Development Program
UNHCR	United Nations High Commissioner for Refugees
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
WFP	World Food Programme
WHO	World Health Organization

“Internal displacement has emerged as one of the great human tragedies of our time. It has also created an unprecedented challenge for the international community: to find ways to respond to what is essentially an internal crisis...protection should be central to the international response and [with] assistance should be provided in a comprehensive way that brings together the humanitarian, human rights, and development components of the United Nations.”

Kofi Annan, United Nations Secretary-General
Preface, *Masses in Flight: The Global Crisis of Internal Displacement*
Brookings Institution, 1998.



Conclusions and Recommendations For More Effective UN Action



Returning internally displaced persons in East Timor.

Photograph by Manatuto/UNHCR.

Considerable and quite innovative efforts are being undertaken in a number of countries by the staff of United Nations agencies and non-governmental organizations (NGOs) to provide protection to internally displaced persons (IDPs) and other vulnerable groups, often in extremely difficult and dangerous circumstances.

In some countries, the dissemination and promotion of the Guiding Principles on Internal Displacement to national and local authorities and to UN and NGO staff have provided a clear and practical framework for protection programs and activities. These include the development of monitoring and reporting systems on the conditions of IDPs and the establishment of protection working groups to bring together UN and non-UN actors to discuss protection issues. Some UN agencies and NGOs have established presence and developed programs in areas where IDPs and people at risk of displacement are under threat.

These and other efforts notwithstanding, the survey team found that ten years after Rwanda, the United Nations had still not adopted the protection of civilians and the prevention of displacement as a core part of its mandate. The UN's approach to the protection of internally displaced persons is still largely *ad hoc* and driven more by the personalities and convictions of individuals on the ground than by an institutional, system-wide agenda. It also suffers from a lack of political and financial support from UN headquarters and UN member states.

Interviews with a diverse and sizeable group of observers highlighted a number of critical protection gaps, including:

The UN's approach to the protection of IDPs is driven more by the personalities and convictions of individuals than by an institutional, system-wide agenda.

- a reluctance by senior UN officials, both in the field and at headquarters, to advocate for the rights of the displaced in an effective and assertive manner;
- a lack of awareness among the majority of Humanitarian and Resident Coordinators (HCs/RCs) who deal with emergency situations in the field of their responsibility to provide protection for the internally displaced, as stipulated in UN policy documents;
- a sharp division within the UN between the humanitarian and political sides of the house, with protection relegated in nearly every case to the humanitarian agencies, which often found themselves working at cross-purposes with other UN officials who wielded significantly more political and economic power;
- serious under funding of protection programming.

The field visits also found:

- poor coordination in protection by UN country teams in the majority of countries visited, in particular insufficient attention to engaging “protection allies”, including IDPs and other civilians at risk, in jointly planning strategies and activities to enhance physical safety;
- insufficient presence of international staff outside the capitals and among vulnerable populations;
- an absence in most countries visited of monitoring and reporting on the protection problems and needs of IDPs and other vulnerable groups;
- an ineffectiveness on the part of the UN, at both the field and headquarters levels, in addressing the denial of humanitarian access to IDPs in dire need of protection and assistance; and a failure of the UN system to address widespread impunity for those who commit violent acts against humanitarian aid workers—something noted in every country visited.

There seemed to be a profound lack of awareness by UN agencies of how their action or inaction was perceived by displaced and war-affected people, who looked to the UN for help but did not see themselves as having any power to demand help and protection from the UN. Both displaced persons and members of civil society felt confused by the apparent reluctance of the UN to speak out on human rights violations or provide clear information on policies relevant to protection.

In short, however concerned international humanitarian and development agencies professed to be with the protection of IDPs, in practice international protection was not undertaken in any sort of predictable, consistent or systematic manner. And on occasion, it might be overlooked altogether.

Yet a predictable, consistent and systematic approach to the protection of IDPs is precisely what is required: an approach to protection that is seamless from high-level political advocacy to programming on the ground and that includes all key areas of the UN—political, peacekeeping, human rights, humanitarian and development. Such an approach is composed of the key elements discussed below.

A PRINCIPLED APPROACH TO PROTECTION—THE NEED FOR ASSERTIVE AND EFFECTIVE ADVOCACY

A fundamental requirement for a more predictable, consistent and systematic approach to the protection of internally displaced persons is the commitment of the UN's leadership and member states to the principles on which the UN is founded and which have been elaborated in the Universal Declaration of Human Rights and other international human rights and humanitarian law instruments. Just as the International Committee of the Red Cross is viewed as the "guardian of International Humanitarian Law", so should the United Nations see itself as the "guardian of the Universal Declaration of Human Rights". In sum, there is a need for the UN to adopt a more principled approach to protection, characterized by a more consistent, assertive, sustained and vocal approach to advocacy.

What this means in practical terms is:

First, the need for the senior levels of the UN, in particular the Secretary-General, the Emergency Relief Coordinator (ERC), and the heads of agencies, as well as donor states to impress upon governments that Humanitarian and Resident Coordinators (HCs/RCs) have a responsibility, and are expected and required, to address protection issues and should not be penalized for doing so, including by threats of or actual expulsions from a country. It is also fundamentally important that headquarters adopt a far more supportive attitude towards those HCs/RCs who are expelled or threatened with expulsion as a result of their advocacy efforts, so as not to discourage risk-taking in support of the Inter-Agency Standing Committee (IASC) protection policy.

Second, a principled approach to protection requires a far more proactive response from headquarters to protection concerns emanating from the field, and a response that includes and may extend beyond engagement and dialogue with the government concerned. This applies, in

particular, to the ERC, the High Commissioner for Human Rights and the Representative of the Secretary-General on Internally Displaced Persons (now the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons), as well as the IASC and the relevant special procedures of the UN Commission on Human Rights and the UN human rights treaty bodies.

For the ERC, this may mean bringing urgent protection concerns to the attention of the Security Council on a more frequent basis. HCs/RCs, OCHA offices and desk officers in New York and Geneva, including the Internal Displacement Division, should be expected to bring relevant information to the attention of the ERC for this purpose. In addition, UN country teams should routinely provide input into the country-specific reports of the Secretary-General to the Security Council.

The ERC and the High Commissioner for Human Rights should also bring protection issues into the meetings of the UN Secretary-General's Executive Committees on Peace and Security and on Humanitarian Affairs. More vocal advocacy on the part of the ERC, the High Commissioner for Human Rights and the Representative of the Secretary-General on Internally Displaced Persons will be needed, in particular in those situations where the HC/RC or the country team, by virtue of being in-country, may be more vulnerable to pressure from the authorities.

Representing as it does the common voice of the UN's humanitarian, development and human rights agencies, the Inter-Agency Standing Committee should undertake common stands in defense of humanitarian and human rights principles on a more regular basis than has been the case to date, an approach which should be fostered by the ERC as IASC Chair. It is important too to make country teams more aware of the potential that exists at the IASC and how to use it.

As for the Office of the High Commissioner for Human Rights (OHCHR), it should take steps to raise awareness among UN and NGO field staff of the special procedures of the UN Commission on Human Rights, which are a largely unknown and under-utilized channel through which to raise protection concerns with governments. By the same token, the Commission's special procedures should be provided with increased resources to enable them to undertake missions on a more regular and flexible basis, in particular at times of acute crisis when their intervention with governmental and non-governmental actors, as well as the documentation of abuses, may be critical.

Similarly, more effective use should be made of the UN human rights treaty bodies. Here too, it is OHCHR's job to raise awareness of the existence of these bodies among UN country teams and national NGOs and civil society groups. This should include training

sessions or briefings on how treaty bodies can be used as a forum in which to raise concerns about the displaced.

UN country teams, for their part, need to adopt a more systematic approach toward promoting implementation of the recommendations made by the special procedures and human rights treaty bodies.

Third, a principled approach to protection means that advocacy on protection and humanitarian issues is not held hostage to the political concerns of UN peace missions or Secretariat officials in New York. This requires open discussion within the UN system on the roles and relationships between the humanitarian and political sides of the UN. It is a discussion that should lead to express guidance for Special Representatives of the Secretary-General on their responsibilities to support the advocacy efforts of the humanitarian side of the UN. It should mean undertaking advocacy on behalf of the humanitarian side at the highest level. Both the Department of Political Affairs and the Department of Peacekeeping Operations should have designated protection liaison staff in their offices for this purpose.

Fourth, a principled approach to protection requires greater willingness on the part of the donor and diplomatic community to advocate for the rights of the internally displaced and other populations at risk. While, realistically speaking, political, strategic and commercial interests will often take precedence over human rights and humanitarian concerns, experience from the field shows that a mobilized and informed donor and diplomatic community can and often will take important steps toward persuading a violating government to adopt a different course of action.

Key in this regard is the need for UN country teams to keep the donor and diplomatic community informed of events on the ground. This means regular briefings for donors on human rights and protection concerns. These could be reinforced by the production of “demarche-friendly” situation reports specifically tailored to the donor and diplomatic community. Such reports, in a simple and straightforward format, would identify non-compliance with relevant standards, such as the Guiding Principles on Internal Displacement¹ and the SPHERE standards².

Fifth, a principled approach to protection implies the need for all relevant actors to draw attention to the responsibility of governments to take the necessary steps to hold perpetrators of abuses against civilians and humanitarian workers accountable for their actions.

IMPROVING AWARENESS AND ACCOUNTABILITY OF HUMANITARIAN AND RESIDENT COORDINATORS

In view of their central role in the field as the responsible and accountable official, there is an urgent need to ensure that Humanitarian and Resident Coordinators (HCs/RCs) are aware of their responsibilities toward the protection of IDPs, as laid down in UN policy documents. Steps also need to be taken to establish a mechanism for ensuring the accountability of HCs/RCs and country teams for implementing protection activities.

With regard to making HCs/RCs aware of their responsibilities, it should be noted that following the submission of an earlier version of this report to UN inter-agency bodies, a decision was taken in March 2004 to develop an IASC policy package, inclusive of a section that consolidates and updates existing IASC policy on IDPs, as contained in the IASC protection policy paper and the supplementary guidance. Due for completion in 2004, the policy package will be disseminated by the ERC to the HCs/RCs and UN agencies in the field. However, given the limited effectiveness of such dissemination activities in the past, it will be important for the ERC to instruct HCs/RCs to convene a one-day workshop with the country team to discuss the revised guidance and the steps required for their implementation.

Beyond raising awareness among existing HCs/RCs about their protection responsibilities, it is clearly important to institutionalize such awareness. At the time of writing, OCHA was in the process of developing an induction course for new Humanitarian Coordinators that would address among other issues the question of protection.

With regard to Resident Coordinators, it is recommended that the UN Development Group ensure that its induction course for new RCs include a specific session on their responsibilities *vis-à-vis* the protection of IDPs. At present, their role with IDPs is discussed in several sessions of the induction course, namely those on early warning and preventive measures, conflict, post-conflict, peace building and transition to development and in the sessions on natural disaster management and management of local and political issues.³ However, it would be important to dedicate a specific session to the role of RCs in the protection of IDPs, in accordance with the protection policy paper and supplementary guidance. It is also recommended that the Chief Executive Board revise the "Guidelines on the Functioning of the Resident Coordinator System" and the RC "job description" to reflect more fully the responsibilities of RCs in relation to internally displaced persons.

To promote greater accountability of HCs/RCs, the monthly reports they send to the ERC should routinely provide information on protection concerns, both for IDPs and the civilian population, including activities to prevent displacement. The reporting practice estab-

lished under a previous ERC, Kenzo Oshima, requested HCs/RCs to provide information on “issues related to protection of civilians”, encompassing access, engagement with armed actors, separation of civilians and armed groups in refugee and displaced persons camps, and other protection concerns. The current ERC, Jan Egeland, has indicated his intention to maintain this reporting requirement⁴. Where such information is insufficient or absent, the ERC should make a point of requesting it.

It would also be critical to make sure that RCs (and not just HCs) carry out this reporting obligation, at least on a quarterly basis. At the moment, RCs are required to report to the ERC only if they have been designated as an HC, leaving a number of displacement-affected states outside the scope of this system.

The Internal Displacement Division should be routinely copied on the monthly reports from HCs/RCs to the ERC and be requested to provide input to the ERC’s responses. The Division has incorporated the question of HC/RC accountability into its program of activities for 2004.

COORDINATION, PLANNING AND STRATEGIZING ON PROTECTION

There is much to support the “mainstreaming” of protection activities into the overall humanitarian response. Indeed, the survey team would recommend that a concerted effort be made by agencies to provide protection training to all field staff, from program officers to food distributors to health workers to sanitation engineers, to raise their awareness of protection issues with a view to ensuring that their work and actions are informed by a protection perspective.

However, it is also apparent that rights-based programming, including providing practical protection to IDPs, is not well understood. This notwithstanding that the physical protection of IDPs and other groups essentially underpins the success of other parts of the humanitarian response. Indeed, to avoid “well-fed dead” scenarios, HCs/RCs must recognize protection as a specific *sector* of the humanitarian response and undertake appropriate coordination, planning and strategizing.

Most importantly, HCs/RCs in displacement-affected states should designate a focal point on protection to provide leadership to the country team and facilitate coordination in this sector. The focal point could set up a protection working group or other fora to bring together relevant international and national actors. Such a forum would provide channels for consultation with displaced and at risk communities, so that the UN would get a better understanding of how they perceive their situation and the steps required to address it.

The survey team***found IDP monitoring******and reporting******systems in only three******of the nine countries******visited.***

The designation of a focal point on protection would increase predictability and provide support to HCs/RCs. To begin with, there is no single UN agency with an explicit mandate for the protection of IDPs. *Second*, this is unlikely to change in the foreseeable future. Efforts, therefore, should try to make the “collaborative approach,” the option chosen by the international system, more effective and predictable, in particular with regard to protection. *Third*, of those UN agencies that have a protection mandate, namely the UN High Commissioner for Refugees (UNHCR), OHCHR, and UNICEF, there is simply too much uncertainty as to the ability or willingness of these agencies to assume a coordination role on protection of displaced persons in any given country. *Fourth*, assigning this role to an agency without protection expertise can prove highly contentious among other agencies, as well as at headquarters and among donors.

What is needed is for the IASC to develop clear and express guidance for HCs/RCs and for country teams, providing a series of options for coordination on protection, with the aim of ensuring that in all country situations a UN agency (preferably with a protection mandate) is tasked with facilitating the development of a coordinated and inclusive response to the protection needs of the displaced.

There are positive signs in this direction. In particular, steps are underway to further develop the concept of a protection standby force that could be deployed at the request of HCs/RCs and country teams to provide them with strategic advice and undertake protection monitoring and reporting. The standby force would be deployed as a last resort and in the event that a protection mandated agency such as UNHCR, OHCHR or UNICEF were unable or unwilling to assume a greater protection role with IDPs. The concept was endorsed by the IASC in March 2004. It is also recommended that small interagency mobile protection advisory teams be created in every country where there are significant protection problems. These teams could travel throughout the country on a regular basis providing support and consultation on protection and could be “on call” when protection crises arise.

MONITORING AND REPORTING

There is need to establish routine mechanisms for the monitoring and reporting of protection issues concerning IDPs and communities at risk, at the same time taking the necessary steps to guarantee confidentiality of informants.

Monitoring and reporting systems are often absent and urgent steps must be taken by UN country teams to develop them. This should include making use of existing, and often quite extensive, information networks established by national NGOs and civil society groups, in particular when it comes to areas of a country where UN agencies have limited or no access.

Country teams should also consider establishing a central humanitarian situation room, or information center, into which all actors on the ground, from UN peacekeeping missions to regional organizations, can submit protection-related information for analysis and response, again taking necessary steps to guarantee confidentiality.

A monitoring and reporting process should include the collection of information on marginalized or otherwise vulnerable groups among the displaced, such as women and children, the elderly and also groups such as minority or indigenous communities and draft age males who may have concerns that are not necessarily shared by the displaced population as a whole and that may require specific forms of response. Information should also be sought about individuals who may be particularly vulnerable or at risk, such as community leaders, heads of displaced persons associations and human rights defenders.

Specific attention should be paid to collecting information about sexual and gender-based violence. This must include culturally acceptable ways for women and indeed men to report rape and other cases of sexual violence. To help with this, NGOs could be encouraged to hire female staff and to train staff to recognize symptoms of sexual assault and exploitation, encourage reporting of incidents, and address the medical, psychological and social needs of those who have been assaulted.

The failure to develop monitoring and reporting systems can result in an incomplete picture of the displaced, which will impede the development of effective protection strategies by agencies on the ground. Further, it will undermine potential and ongoing advocacy efforts by the country team and actors such as the ERC, the High Commissioner for Human Rights and the Representative of the Secretary-General on Internally Displaced Persons.

Monitoring and reporting is also of crucial importance to documenting violations of international human rights, humanitarian and criminal law with a view to future prosecutions

of perpetrators. In such instances, appropriate safeguards should be taken to protect the identity of victims and witnesses.

MEANINGFUL INTERNATIONAL PRESENCE

International presence must be increased, security conditions permitting, with more regular presence in the field outside the capital, both in an effort to deter abuses and also to raise awareness among the local population about the United Nations and its role as an organization to which populations and persons in danger can turn for assistance and protection.

Agencies, in particular UNHCR and OHCHR, should give greater consideration to the increased deployment of protection and human rights officers on the ground and in numbers that are proportional to the gravity of the situation and the protection problems confronting the displaced and the civilian population more generally. This will require greater willingness on the part of donors to finance such expansion as well as more streamlined recruitment and deployment processes on the part of international agencies. In the absence of such expansion, HCs/RCs should be able to draw upon the proposed protection standby force when created.

Whatever the extent of international presence in a given country, the presence must be meaningful. Training must be provided on a systematic basis to all field staff, including military and civilian personnel, on international human rights and humanitarian law and the Guiding Principles on Internal Displacement. All field staff should also receive training on in-country monitoring and reporting systems and the steps that they must take if they witness violations of human rights and humanitarian law or receive information pertaining to such violations. Training must also encourage field staff to consider protection issues when conducting needs assessments and when planning and evaluating programs.

The Security Council for its part should make sure that UN peacekeeping operations are given clear and robust mandates *vis-à-vis* the protection of civilians, including IDPs. This should include the possibility of deploying military units and ceasefire observers to areas of a country to help deter human rights violations against civilians. This, in turn, will require that UN member states, and troop contributing states in particular, take a broader view of their national interests and provide missions with the resources needed to implement their mandates.

Donor governments should become more proactive in the field and visit more regularly areas of countries where protection problems are either anticipated or ongoing. In the event that access is denied, donor governments should request precise information from

the government concerned about the conditions of the displaced in these areas and the reasons for the denial of the visit.

Providing an effective international presence also means effective measures for ensuring staff security. UN headquarters officials from the Secretary-General down, and including the IASC and the Security Council, should be far more indignant in the face of threats or attacks against UN and other humanitarian staff. A clear and consistent message should be sent to the parties concerned that steps must be taken by the government of the country to identify, prosecute and punish those responsible.

The IASC and humanitarian actors will also have to consider the use of armed escorts, even though this raises concerns about the neutrality and independence of the UN by the different parties to the conflict and by the displaced and civilian population. It should be apparent that contracting the services of one of the parties to the conflict is unsound practice particularly when that party may have an interest in denying access to the displaced and other vulnerable populations. It is also questionable on ethical grounds, especially when the forces involved are implicated in human rights violations.

ENGAGING NON-STATE ACTORS

As a rule and in line with existing UN policy guidance, UN country teams, under the leadership and coordination of the HC/RC, should be permitted by UN headquarters to engage with non-state actors to negotiate fundamental issues such as humanitarian access and to promote and disseminate humanitarian and human rights principles. Headquarters should support and facilitate such efforts, especially when they might promote better conditions for the internally displaced. Indeed, the need for the UN to have contact with all actors affecting the protection of the civilian population should be non-negotiable.

DEVELOPING AN EARLY WARNING AND RESPONSE CAPACITY

Country teams need to take a more proactive approach to early warning and response, a process that would be greatly facilitated by the development of monitoring and reporting systems on the situation of the displaced and other groups at risk. In particular, more effective use should be made of early warning information provided by national NGO and civil society networks and national human rights institutions, which should be encouraged to share information with the UN.

To respond to early warnings and other imminent protection concerns, country teams should develop an appropriate response capacity, which allows for the rapid deployment of field staff to affected areas in an effort to discourage forced displacement and other violations and to provide an initial response to the needs of the population in the event that deterrence fails. Agencies should agree to designate specific staff members, and alternates, to be “on call” to undertake missions as and when required.

Parallel to such efforts, HCs/RCs and senior officials at headquarters, including the ERC, the High Commissioner for Human Rights, the Representative of the Secretary-General on Internally Displaced Persons and relevant country special rapporteurs of the Commission on Human Rights, as well as members of the diplomatic and donor community, should intercede directly or through appeals to the relevant local and national authorities with a view to preventing an impending situation of displacement or other human rights violations. Further, the IASC Working Group should take steps to periodically review situations identified as possibly leading to internal displacement and thereby contribute to contingency planning, including technical cooperation with the authorities.

RAISING THE PROFILE OF PROTECTION IN NEEDS ASSESSMENTS AND RESOURCE MOBILIZATION

Pursuant to the Montreux meeting of donors in February 2003, needs and vulnerability assessments should routinely and broadly focus on protection issues and should go beyond the needs of specific groups such as women and children. To this end, the dispatch of protection assessment missions should be considered. Where such assessments indicate the need for specific protection interventions, donors should be prepared to provide the necessary resources and in a timely manner. Donors should also consider providing funding for inter-agency and countrywide protection systems of the kind advocated in this report.

Given that financing for protection activities is frequently not forthcoming, the Internal Displacement Division should undertake a comprehensive study, in cooperation with donors, to explore how the apparent reluctance to fund protection activities might be overcome.

In addition to raising the profile of protection-related activities in the annual UN Consolidated Appeals Process, concerted efforts must be made by country teams to ensure that the protection and assistance needs of IDPs are adequately reflected in development instruments such as Common Country Assessments (CCAs), UN Development Assistance Frameworks (UNDAFs) and Poverty Reduction Strategy Papers (PRSPs). To assure this, the Internal Displacement Division should undertake a review of these instru-

ments to examine the extent to which they reflect the concerns of the displaced and other at-risk groups and their need for protection.

OHCHR human rights advisors deployed to UN country teams should be instructed to ensure that human rights and protection issues pertaining to the displaced and other marginalized groups are fully reflected in CCAs, UNDAFs and PRSPs.

In addition, the World Bank should ensure that there is express reference to the protection and human rights concerns of the displaced and other vulnerable groups in any future revisions of the PRSP source book.

STRENGTHENING LOCAL AND NATIONAL PROTECTION CAPACITY

The advances made by some country teams in strengthening local and national protection capacity demonstrate the need for agencies to identify officials within local and national administrations with whom they can work and support.

Second, attention should be given by country teams to promoting and supporting the work of national human rights institutions that in some cases have proved to be an important first line of defense for the rights of the displaced. Beyond national human rights institutions, country teams should consider facilitating the work of other national human rights actors (both governmental and non-governmental) through logistical support (provision of vehicles/motorcycles) as well as capacity-building programs (provision of office equipment and space, training in international standards). Human rights organizations in many countries expressed to the survey team a desperate need for greater UN support.

Third, UN country teams should as a matter of course explore the possibilities for the development of national policy and legal frameworks for the protection and assistance of the displaced, based on the Guiding Principles. Indeed, national policy and legal frameworks are often seen as less “foreign” by

National human rights institutions have proved to be an important first line of defense for the rights of the displaced.

national authorities and also provide an effective advocacy tool, allowing agencies to call upon national actors to implement their own, nationally-endorsed policies. A UN Economic and Social Council resolution in July 2003 urged “the international community to strengthen its support to affected States in their efforts to provide, through national plans and initiatives, protection and assistance to their internally displaced persons”.⁵

Fourth, although often regarded as a longer-term goal, greater attention should be paid to developing and supporting domestic rule of law and judicial mechanisms during the emergency phase of an operation. The “transition gap” that exists between the outbreak of hostilities, when displacement occurs, and when redress is given to the victims of forced migration and other violations, can last years during which time evidence may be lost and property records destroyed, making redress a far more distant and painful prospect for the victims.



Introduction



Muslim women and children in a displaced persons camp in eastern Croatia in 1994.

Photograph by Sebastiao Salgado.

"The protection of internally displaced persons must be of concern to all [United Nations] agencies."
United Nations Policy Document (December 1999)

"If we don't do protection, what are we doing here?"
Senior United Nations Official in Africa (January 2003)

In theory it seems quite straightforward. All United Nations humanitarian and development agencies have a role to play in ensuring respect for the human rights of persons who have become, or are at risk of becoming, displaced within the borders of their own country as a result of armed conflict and human rights violations.⁶

The practice, however, remains problematic. Protecting the internally displaced and those at risk of displacement in situations of armed conflict and violence is a complex and often dangerous undertaking. It requires an understanding of rapidly changing circumstances, of the motives of the different parties and of the needs of those affected. It requires initiative and innovation to plan, develop strategies, and identify who should respond. It requires knowledge of human rights and humanitarian law and its applicability to situations on the ground and most importantly, experience and skills in the practical ways to provide protection. The ability to effectively negotiate with governments, national security forces and non-state actors to gain access to affected communities and to advocate for respect of their human rights is essential to success. Effective protection will also require political support from higher levels of the UN, reflecting a willingness to act in response to the concerns of those in the field.

While the problem of internal displacement is as old as war and the nation state itself, providing protection for those affected has only received international attention in the last decade or so. It was not until a group of non-governmental organizations (NGOs) in the early 1990s drew attention to the fact that internal displacement was not only a humanitarian problem, requiring food medicine and shelter, but a human rights one, requiring specific measures to protect the physical safety and human rights of those uprooted, that internal displacement began to receive the attention it deserved.

Against the backdrop of the Cold War's end, an explosion of civil wars and an upsurge in the number of internally displaced persons (IDPs), a meeting was convened in Washington DC in 1991 of international human rights, humanitarian and refugee experts. The meeting drew attention to the human rights and protection needs of IDPs and called for a more effective international response, including far greater attention and resources from international and regional organizations, governments and NGOs than had been the case to date.⁷

One year later, then UN Secretary-General Boutros Boutros-Ghali underscored the disparity in international treatment when it came to refugees and IDPs. He observed that the countries with large populations of IDPs were also refugee producing countries and that the factors causing the two groups to flee their homes were often identical. Yet refugees were protected by the 1951 Refugee Convention, whereas no international standards were expressly applicable to IDPs. Nor was there an international body, such as UNHCR, with special responsibility for protecting the rights of IDPs. "From the human rights perspective...", wrote the Secretary-General, "where the ultimate concern is the effective enjoyment of basic rights by all persons, without discrimination, this difference is viewed as an injustice which calls for the creation of a more effective system for the protection of the rights of internally displaced persons."⁸

The years that followed witnessed a significant advance in the development of international standards to protect the displaced. In 1998, the Guiding Principles on Internal Displacement were presented to the United Nations by the Secretary-General's Representative on Internally Displaced Persons, Francis M. Deng. However, progress in the development of more effective institutional arrangements for ensuring the physical protection of the displaced lagged far behind. As Secretary-General Kofi Annan noted in his 1997 report on reforming the UN, providing protection and assistance to internally displaced persons continues to fall into the gap between the mandates of the various UN agencies.⁹ Two years later, his Representative on IDPs observed that while important measures have been taken towards filling that gap, "there remains a need to develop an agreed framework for providing protection to internally displaced persons more systematically."¹⁰

For Deng, an "essential first step" was the adoption by the UN's Inter-Agency Standing Committee (IASC)¹¹ in December 1999 of a policy paper on the protection of internally displaced persons, through which the heads of the different UN agencies acknowledged that the protection of IDPs "must be of concern to all humanitarian/development agencies".¹² The policy paper was described as part of a growing effort by international organizations "to address more proactively the needs of internally displaced persons, to assess and analyse those needs, and to act when the rights of the internally displaced are being violated."¹³

Four years on, it is timely to ask to what extent UN agencies have been providing effective and meaningful protection to the displaced. Just how proactive are they? To what extent do they act when the rights of the displaced are being violated? Indeed, just how concerned and engaged are humanitarian and development agencies in providing protection to internally displaced persons?

To shed some light on these questions, the Internal Displacement Unit¹⁴ of the Office for the Coordination of Humanitarian Affairs (OCHA) and the Brookings Institution-Johns Hopkins SAIS Project on Internal Displacement undertook a joint “protection survey”. Between December 2002 and May 2003, a team of two researchers (the “survey team”) undertook field missions to 9 countries with the aim of examining the way in which UN country teams and other actors, such as NGOs and civil society groups, work to support states in discharging their responsibility for the protection of IDPs.

The survey team visited, in the following order: *the Russian Federation, Somalia, Burundi, Liberia, Angola, the Democratic Republic of Congo, Nepal, Sri Lanka and Colombia*. The countries were chosen because they reflected a cross-section of displacement situations, encompassing emerging, forgotten or “ignored” crises, ongoing and/or protracted crises, and situations of return or resettlement and reintegration.

The choices also reflected a regional balance as well as countries where protection concerns and the responses to them varied. In some cases, countries were selected because of the presence of UN actors working to protect IDPs; in others because the UN Commission on Human Rights had assigned a special rapporteur to report on the human rights situation in the country.

During the missions, the survey team met with a broad range of actors—UN agencies, government officials, representatives of regional organizations, international and national NGOs, civil society groups, the International Committee of the Red Cross (ICRC) and national Red Cross and Red Crescent societies, members of national human rights institutions, representatives of regional and UN peace missions, members of the diplomatic and donor community, and displaced and minority communities. It should be noted that many of the displaced people interviewed for this study looked to the UN for help. Similarly, members of civil society, human rights defenders and NGOs in each country visited clearly wanted far more engagement by the UN, even though they expressed serious concerns about the role of the UN in protection.

The initial findings of the survey team, contained in a report entitled the “Protection Survey”, were presented to the UN’s Senior Inter-Agency Network on Internal Displacement and to the Inter-Agency Standing Committee in October 2003. Following

those discussions, the present and more comprehensive report was prepared, reflecting the discussions of UN agencies as well as NGOs and the comments received from a group of expert readers.

The report opens with the conclusions and recommendations on how to undertake field-based protection more effectively and more systematically.

Part One provides the rationale for this report and describes the theoretical approach taken to protection, including a definition of “protection” and a discussion about who is responsible for protecting displaced persons and those at risk of displacement.

Part Two draws upon the findings of the field missions and, using the IASC protection policy paper as a frame of reference, discusses the manner in which protection activities are carried out in the field by the UN and other actors. After closely examining the efforts being undertaken by UN staff to protect the displaced, it discusses whether these efforts demonstrate that the UN is giving sufficient priority to the protection of civilians and the prevention of displacement and is unified in its objective of promoting protection.

A word on what this report is not. This report is not an evaluation of the performance of any given UN country team. Nor does it attribute quotes to specific individuals. Prior to undertaking the country missions the survey team decided, in consultation with the sponsoring organizations, to avoid any such evaluation and guarantee confidentiality to interviewees.

What the survey team sought to do was to create an environment in which interviewees would feel at ease and encouraged to share their views candidly without concern that they had to restrict their comments to the “agency line”. It was an approach interviewees appreciated. In fact, many used the opportunity to “unburden themselves” of serious concerns and to share information that would not have otherwise been shared in a more formal context.



PART ONE
Protection—What Is It
And Who Does It?



After the genocide of the summer of 1994, Rwandan Hutus streamed into this internally displaced persons camp at Kibeho in search of safety, swelling its population to an estimated 150,000 by early 1995.

Photograph by Sebastiao Salgado.

What then do we mean by the term “protection” and, importantly, who is supposed to do it? What activities does it involve and whose responsibility is it to undertake those activities and, for that matter, to ensure that they are undertaken?

Given that the principal focus of this report is on the role of the UN’s humanitarian and development agencies in protecting the internally displaced, an obvious starting point is the Inter-Agency Standing Committee’s policy paper on the protection of internally displaced persons which sought to clarify precisely these questions for the agencies.

The policy paper originates from discussions between three senior UN officials during 1998: the late Sergio Vieira de Mello, then UN Emergency Relief Coordinator (ERC) and Under-Secretary-General for Humanitarian Affairs; Francis Deng, then Representative of the Secretary-General on Internally Displaced Persons; and Mary Robinson, then UN High Commissioner for Human Rights.

The discussions were aimed at enhancing inter-agency collaboration in responding to the protection needs of IDPs. In January 1999, a first draft of a joint policy paper prepared by Deng’s office was presented to the IASC’s Working Group, the main inter-agency forum for consultation on matters relating to IDPs.¹⁵ This paper then served as the basis for the policy paper as endorsed by the IASC in December 1999.¹⁶

The IASC’s endorsement of the protection policy paper confirmed the view that international responses to crisis situations “must address not only assistance needs but also concerns of physical security”, a marked departure from past practice.¹⁷ It reflected a growing awareness within the international community of the connection between protection and assistance and underscored that “the meaning of protection at a general level, and for internally displaced persons in particular, was yet to be fully conceptualised.”¹⁸

Thus, the objective of the paper was to define inter-agency policy on the protection of internally displaced persons. As such, it provides a useful framework for the discussion of current approaches to protection and the findings of the survey team.

DEFINING “PROTECTION”

According to the IASC policy paper, protection means taking action. It refers to:

all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law (i.e., human rights law, international humanitarian law, refugee law).¹⁹

This definition was originally adopted at the third of a series of protection workshops organized by the International Committee of the Red Cross (ICRC) between 1996 and 2000 and attended by a wide range of humanitarian and human rights experts.²⁰

While the definition is regarded as comprehensive in scope, it does give rise to additional questions, notably exactly what “rights” are we talking about and what “activities” might be undertaken towards obtaining their full respect?

Regarding the first question, the policy paper notes that:

- Unlike refugees, internally displaced persons have not crossed an international border and therefore no single international legal instrument exclusively addresses their specific protection needs;
- IDPs are covered by the laws of their own country and the state bears the primary responsibility for assisting and protecting them;
- In accordance with human rights law, which remains relevant in most situations of internal displacement, IDPs are entitled to enjoy, in full equality, the same rights and freedoms under domestic and international law as the rest of a country's citizens;²¹
- In situations of international and non-international or internal armed conflict, IDPs are also protected by international humanitarian law. In the case of international armed conflict, this includes the Fourth Geneva Convention and Protocol I to the Geneva Conventions, and in non-international armed conflicts, Article 3 common to the Geneva Conventions and Protocol II.²²

In an effort to further clarify the “rights” question, the policy paper also refers to the Guiding Principles on Internal Displacement, “the first comprehensive attempt to articulate what protection should mean for the internally displaced.”²³

Drawing on human rights law, international humanitarian law and refugee law by analogy, the Guiding Principles set a minimum standard of treatment for the internally displaced. They identify the rights and guarantees relevant to the protection of displaced persons in all phases of displacement, providing protection against arbitrary displacement, protection and assistance during displacement, and during return or resettlement and reintegration.

Protection as elaborated in the Principles covers not only needs for physical security and safety but also the broad range of civil and political and economic, social and cultural rights provided for in international law.

Rather than seeking to create a privileged category of persons or to establish a separate legal status for the internally displaced, the Guiding Principles are based on the assumption that IDPs have the same rights as other persons living in their own country. At the same time, they draw attention to the special needs of the displaced. These needs, especially protection problems, become critical when the state is unwilling or unable to address the concerns of the displaced.

Although not a legally binding document like a treaty, the Guiding Principles reflect and are consistent with instruments of international human rights and humanitarian law, and refugee law by analogy, which are binding. Moreover, although the Principles as a document lack formal binding force, they have gained broad consensus and support and increasingly so, not least because they provide solid guidance on how protection activities should be oriented to be effective.²⁴

Basing protection on principles of law is certainly important, but as the IASC policy paper correctly points out, "action is required to translate protection principles into effective protection on the ground."²⁵

OPERATIONALIZING PROTECTION—HOW?

While human rights violations can arise from arbitrary acts they can also be the consequence of deliberate policy, ranging from discrimination to harassment to mass killings, mass starvation and genocide. In such circumstances, it seems contradictory for humanitarian organizations to provide material assistance to the victims without also being concerned about why they require such assistance or about the impact of that assistance on people's safety. In situations of armed conflict, the protection aspect of humanitarian action cannot be ignored, otherwise that action will at best bring only partial relief and, at worst, may harm those it is intended to help.²⁶

According to the protection policy paper, humanitarian and development agencies have increasingly begun to recognize their responsibilities in the area of protection, including with regard to IDPs. However, “there remains a need to give practical meaning to such commitment.”²⁷ Once again drawing upon the ICRC workshops, the policy paper outlines three broad categories of protection activities:

Environment building—activities aimed at creating or consolidating an environment conducive to full respect for the rights of individuals;

Responsive action—activities undertaken in the context of an emerging or established pattern of abuse and aimed at preventing or alleviating its immediate effects; and

Remedial action—activities aimed at restoring dignified living conditions through rehabilitation, restitution and reparation.

The policy paper then identifies the different sorts of activities that fall within these categories, which can be summarized as follows:

Environment Building

- Disseminating, promoting and applying the Guiding Principles on Internal Displacement and standards of international human rights and humanitarian law;
- Undertaking advocacy—bringing violations to the attention of the Red Cross and officials of the UN system so that they may make representations to the relevant authorities;
- Developing strategies for engaging non-state armed groups;
- Preventing displacement—establishing early warning systems and raising awareness about rights among the displaced and those at risk of displacement;
- Increasing international humanitarian presence among threatened communities;
- Reinforcing preparedness;
- Strengthening local and national protection capacity; and
- Providing protection training for international staff, national authorities, non-state actors, local organizations and all other relevant actors.

Operational Response and Remedial Action

- Monitoring and reporting, including relaying information to officials at UN headquarters in New York and Geneva;
- Integrating protection into humanitarian needs assessments;
- Ensuring that protection needs are addressed in the UN Consolidated Appeals Process;
- Promoting protection in the design of assistance programs;
- Strengthening community-based protection;
- Developing protection strategies for women, children and other vulnerable groups; and
- Promoting protection in the design of return or resettlement and reintegration programs.

OPERATIONALIZING PROTECTION—WHOSE RESPONSIBILITY?

In accordance with established principles of international law, it is first and foremost the responsibility of the governments concerned to meet the assistance and protection needs of their displaced populations.²⁸ The Guiding Principles underscore this—“national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.”²⁹ The IASC policy paper also affirms that the protection role of international agencies and NGOs should involve “reinforcing national responsibility and supporting, not substituting for, the protection responsibilities of competent authorities.”³⁰

The policy paper continues that all agencies providing humanitarian assistance to internally displaced persons have “a responsibility to consider how the design and implementation of their

It is first and foremost the responsibility of the governments concerned to meet the assistance and protection needs of their displaced populations.

assistance activities might best contribute to promoting protection of the internally displaced".³¹ This responsibility was endorsed by the UN Secretary-General in his 1997 Program for Reform, which recognized that human rights protection is a concern that cuts across the entire UN system, entailing responsibilities for its various organs and agencies.³² Thus, although some UN agencies and offices, such as UNHCR, UNICEF and OHCHR have specific mandates and expertise in human rights protection, "it remains incumbent upon *all* agencies to incorporate human rights concerns into their work".³³

The Collaborative Approach

The policy paper points out that the "scale and the multi-faceted nature" of displacement crises have led the IASC to recognize that an effective and comprehensive response to the protection and assistance needs of displaced persons necessitates "a collaborative approach".³⁴ Providing assistance and protection in situations of internal displacement will not therefore involve one agency, but a range of actors—government officials, UN agencies, international organizations, and international and local NGOs.³⁵ This approach has a number of implications:

First, it implies a significant coordination role for the Emergency Relief Coordinator, the UN system's focal point for ensuring that the protection and assistance needs of the displaced are met, and also for the IASC Working Group, the inter-agency forum for discussion of all matters relating to internal displacement.

Second, it requires that the UN Humanitarian Coordinator or Resident Coordinator (in most cases the senior UN official at the country level responsible for coordinating the UN's response in humanitarian emergencies) undertake an important assessment and coordination role within a given country.

Third, it requires the involvement of UN agencies and other international and national organizations, based on their areas of comparative advantage.³⁶

The collaborative approach has not escaped criticism. The ink had barely dried on the policy paper when the IASC found itself defending this approach from claims that the dispersal of responsibility for protection among various agencies would translate into a lack of leadership and accountability.³⁷

The IASC's response to such criticism was to reaffirm the validity of the collaborative approach but also to acknowledge that it required considerable improvement. In particular, it sought to clarify for Humanitarian and Resident Coordinators what exactly is

expected of them in the field through the adoption in April 2000 of “Supplementary Guidance”.³⁸ The guidance contains important additions to the policy paper, both at headquarters and in the field.

At Headquarters

Emergency Relief Coordinator (ERC). As Chair of the Standing Committee and focal point for the inter-agency coordination of protection and assistance to IDPs, the ERC is responsible for global advocacy on protection and assistance; resource mobilization; global information on the displaced; and ensuring that effective coordination mechanisms have been established at field level and that these arrangements are adequately supported.³⁹ The ERC is also required to bring situations of internal displacement requiring a coordinated response to the attention of the IASC for review by its Working Group.

The ERC, according to the supplementary guidance, should also bring issues concerning displaced persons to the attention of the Secretary-General and the Security Council when “necessary and appropriate”.⁴⁰ While the phrase “necessary and appropriate” was left undefined, this provision is an important addition in that the Security Council, since 1999, has become increasingly seized with the protection of civilians in armed conflict, including the “particular vulnerability” of internally displaced persons in such situations.⁴¹ It has also expressed willingness “to respond to situations of armed conflict where civilians are being targeted or humanitarian assistance to civilians is being deliberately obstructed, including through the consideration of appropriate measures at [its] disposal”.⁴² Thus, it would appear that the ERC has a special responsibility to bring protection matters relevant to IDPs to the Security Council.

The Representative of the Secretary-General on Internally Displaced Persons.⁴³ The supplementary guidance also calls for follow-up to the recommendations of the Representative of the Secretary-General on Internally Displaced Persons. It notes that the Representative serves as an advocate for IDPs and in that capacity undertakes missions to affected countries and makes recommendations for improved response.⁴⁴ A more proactive role therefore is suggested to promote implementation of his recommendations.

IASC Working Group. The IASC Working Group is expected to monitor the follow-up to field visits by the Representative, as well as those undertaken by the ERC and inter-agency teams. It is also responsible for reviewing country arrangements affecting IDPs.⁴⁵

In the Field

At the field level, overall responsibility for ensuring that the protection and assistance needs of IDPs are met rests with one of the following UN officials, depending on the country in question.

Humanitarian Coordinator. In situations of internal displacement, which are defined as complex emergencies,⁴⁶ a Humanitarian Coordinator is normally designated by the ERC, in consultation with the IASC, as the responsible and accountable official. In most cases, it is the UN Resident Coordinator in the country concerned who is designated as the Humanitarian Coordinator. The Resident Coordinator is typically the most senior UN official in the country and is appointed by the Secretary-General. He or she is also normally the “resident representative” or head of the country office of the UN Development Program.

Resident Coordinator. In countries affected by displacement where no Humanitarian Coordinator has been appointed, the Resident Coordinator is the responsible and accountable official.

Lead Agency. In countries where the Secretary-General has designated an overall “lead agency” for humanitarian action, the Representative or Country Director of that agency is normally the responsible official.⁴⁷

The person in charge in the field (in the vast majority of cases the HC/RC) must consult with national and local authorities to assess their capacity to respond to the needs of the displaced and at the same time impress upon the authorities their primary responsibility for the protection and assistance of civilians. The HC/RC may suggest to the government and local authorities the appointment of a focal point on IDPs within their structure to liaise with the international community. He or she may also suggest ways in which the UN can help to strengthen local and national capacity.⁴⁸

After consulting with the different UN agencies in a given country (the UN country team) and NGO partners, the HC/RC recommends to the ERC an allocation of responsibilities among the agencies for protection and assistance of the displaced.⁴⁹ The actual coordination on the ground is managed by the HC/RC, who is responsible for ensuring that any gaps in the response are addressed.⁵⁰

According to the protection policy paper, the HC/RC is expected to encourage the establishment of in-country task forces on IDPs to address protection issues⁵¹ and may also encourage the development of special agreements between key partners.⁵²

A comprehensive plan for the internally displaced approved by the country team must then be submitted to the ERC.⁵³ The plan is required to:

- take into account the activities of the national and local authorities;
- reflect the role of organizations with protection expertise or mandates, such as UNHCR, UNICEF and OHCHR;
- include steps to find solutions for the displaced;
- address the specific needs of women, children, the elderly and others who may be at special risk; and
- include adequate provisions to ensure staff security, given the perilous environment in which humanitarian workers frequently have to operate.⁵⁴

The plan is also expected to help identify the displacement-related components of the UN “Consolidated Appeal” (CAP) and its “Common Humanitarian Action Plan” (CHAP). The CAP document is produced annually for countries with complex emergencies and is the primary tool for resource mobilization. The first part of the document is the CHAP, a joint strategy that analyzes the political, social and security situation, projects long-term and short-term humanitarian needs, assesses the competencies of the agencies involved, identifies potential gaps in capacity, and proposes a common set of objectives, actions and indicators of success. Generally, the CHAP provides the strategy that determines the funding requirements outlined in the CAP document.

In developing the country team’s response to a given displacement crisis, the HC/RC may call upon the ERC and the IASC to make available additional expertise in the form of inter-agency missions, training programs and temporary reinforcement of personnel and equipment.⁵⁵ OCHA’s IDP Division can also deploy IDP advisors with particular expertise in protection to help HCs and country teams.

The HC/RC can also call upon the IASC to take the case of displaced and other war-affected communities to the Security Council⁵⁶ and can suggest through the ERC that the Representative of the Secretary-General on Internally Displaced Persons intervene with the authorities in support of protection and assistance for the displaced.⁵⁷

In December 2003, new Terms of Reference (TOR) for Humanitarian Coordinators gave increased prominence to the internal displacement issue and to the need for more attention to protection. The revised TOR reaffirmed the HC’s responsibility for overseeing the development of a comprehensive plan for responding to the assistance and protection

needs of the displaced and identifying appropriate collaborative arrangements amongst agencies to implement the plan.⁵⁸

The revised TOR also strengthens the advocacy role to be undertaken by the HC, making him or her responsible for:

- advocating for unimpeded access to those in need;
- promoting respect for human rights and humanitarian law, including the Guiding Principles on Internal Displacement; and
- carrying out advocacy initiatives with local and international media, the international community, civil society and the public at large.⁵⁹

The human rights and protection responsibilities of Resident Coordinators were reinforced as well by human rights guidelines issued by the UN's Administrative Committee on Coordination in March 2000.⁶⁰ These guidelines affirm the RC's responsibility to "promote the norms, standards and policies of the United Nations, including those relating to human rights."⁶¹ Most interestingly, they note that in formulating public positions and statements, RCs should consider that no country is without human rights challenges and that "public representations to the contrary will be neither credible nor constructive."⁶² They provide that petitions, complaints and other communications relating to alleged or imminent human rights violations "should be promptly transmitted to OHCHR for appropriate action and advice."⁶³

The Administrative Committee's *Guidelines on the Functioning of the RC System*,⁶⁴ which contain the RC "job description", do not make reference to responsibilities for IDPs. Given that these were adopted in 1999 prior to the protection policy paper and the supplementary guidance, there is an obvious case to be made for their revision and the incorporation of specific guidance on the role of RCs *vis-à-vis* the internally displaced.

THE WHAT AND WHO OF PROTECTION—A RECAP

The protection policy paper and the supplementary guidance clearly underscore that UN humanitarian and development agencies have a responsibility to play an active role in providing protection to the internally displaced. Moreover, the policy paper provides quite detailed guidance as to the types of activities to be undertaken.

Most importantly, these and other documents establish where responsibility lies for ensuring that protection issues are addressed. Concrete roles are assigned to the Emergency Relief Coordinator at headquarters and to the Humanitarian and Resident Coordinator in the field.



PART TWO
Protection in Practice—
Observations from
the Field



Internally displaced women and children in Darfur, Sudan - 2004.

Photograph by Ton Koene, Medecins Sans Frontieres.

After studying UN policy objectives, the survey team sought to answer the following questions in its visits to the field:

- To what extent do policy documents on protection translate into concrete actions in the field?
- To what degree is field-level protection for IDPs characterized by activities aimed at creating an environment conducive to respect for human rights?
- How organized and comprehensive are activities aimed at preventing and alleviating abuse and promoting rehabilitation, restitution and reparation for those whose rights have been violated?
- How effectively does this take place within the collaborative framework and include all relevant actors, UN and non-UN, international, national and local?
- To what extent are field level concerns transmitted to headquarters and responded to in a timely and effective manner?

ENVIRONMENT BUILDING

Dissemination and Promotion of the Guiding Principles on Internal Displacement

UN humanitarian and development agencies are expected to apply the Guiding Principles in their activities in the field and use the Principles as a benchmark against which to assess their assistance and protection activities through an integrated country team approach.

In its field visits, the survey team found that there was extensive awareness among UN field staff, as well as the staff of international and national NGOs, civil society actors and nation-

al and local authorities of the existence and utility of the Guiding Principles. In a number of countries, the Principles were a key feature of protection efforts and were being used as a benchmark against which to assess the situation of the displaced and as a tool in advocacy efforts with the authorities. However, these efforts rarely constituted an “integrated country team approach” as called for in UN policies since they were not being used in a systematic or consistent manner by all members of the country team, nor by all country teams.

Nonetheless, there was some highly creative use of the Principles. In some countries, they were used by agencies and NGOs as the basis for awareness-raising initiatives with displaced communities. In others, country teams were using the Principles in their efforts to strengthen national and local capacity for protection through training of civilian and military authorities and the development of legal and policy frameworks for the displaced.

In two countries visited the Principles were a significant component of country team and donor government efforts to inject a humanitarian and human rights dimension into ceasefire and national reconciliation negotiations among the warring parties.

UN agencies in a number of the countries also had the Principles translated into national and local languages. In one country, an international NGO had produced a comic strip version of the Principles for rights-awareness training with displaced communities. Elsewhere, the survey team was informed of the efforts of a UN national staff member to promote the Principles by organizing and participating in a local radio program discussing the rights of the displaced. In another country, relying on the society’s traditional use of poetry to disseminate principles of humanitarian and human rights law was being considered.

Advocacy

According to the policy paper, “active and assertive advocacy for the rights of internally displaced persons”—that is, giving the victims a voice and ensuring that humanitarian and human rights concerns are taken into account—“can be” an essential component of protection efforts. Greater awareness of the rights of IDPs as well as of their needs “must be promoted with national leaders, international organizations, the media, donors and parties to conflicts” when human rights and humanitarian law violations occur, field staff of UN agencies, other international organizations and NGOs are expected to ensure that the information is communicated to officials and institutions “that are in a position to act upon it.” These include the HC/RC, the Office of the High Commissioner for Human Rights, the ICRC, and those UN agencies with a special expertise or responsibility in protection. These actors are in turn expected to make representations directly to the authorities or other influential parties, including UN peacekeeping forces and police units, and military contingents assisting with peacekeeping.

What the survey team found was that the UN policy paper sells the concept of advocacy short. While it asserts that advocacy “can be” an essential component of protection, it is apparent from the field visits that it is less a question of “can be” than “is” an essential component of protection. And it is one on which the UN needs to work much harder.

A constant theme during the interviews was that however extensive a country team’s efforts were on protection, their full potential would only be realized if they were supported by firm and effective advocacy of the HC/RC, the heads of the different agencies in a given country, and headquarters. Indeed, in all the countries visited, interviewees from different backgrounds emphasized the need for UN country teams and the UN system as a whole to take a much firmer line on protection issues with governments, rebel forces and other actors, including the military.

Some referred to the need for the HC/RC and UN country team “to stand up to the authorities and take decisions which aren’t favorable”. Others spoke of the need for the HC/RC and UN country team “to be more indignant about things” and to include “a critical voice” on behalf of the displaced in their dialogue with governments, lest they become complicit in national policies that are ineffective or that compound the problems of the displaced. One UN staff member, voicing concerns shared by many of his colleagues, asked “why are we ashamed of doing what we should be doing, the protection of human rights?” And as one HC/RC aptly put it, if the UN is not in a country to protect human rights, “what are we here for?”

Others expressed their deep dismay at the fact that NGOs and civil society groups would often denounce violations, sometimes at great personal risk, while UN officials—the HC/RC, heads of field-based agencies and headquarters officials—remained silent. As one national NGO staff member remarked, the UN’s failure to speak out “puts us local human rights organizations at risk because we’re having to do the advocacy rather than providing information to more powerful actors [who are able to conduct advocacy with less risk].”

In the Field

The Responsibility of Humanitarian/Resident Coordinators. Although the HC/RC is the “responsible and accountable official” at the field level, the survey team did not get a sense that relaying protection-specific information to the HC/RC and others “in a position to act upon it” is something that occurs routinely. This has in some cases seriously hindered opportunities to engage governments and other actors on protection issues. In those cases where such information was provided to the HC/RC, or was at least readily available, the HC/RC record in providing “assertive and effective advocacy” was decidedly mixed, pointing to a gap between information-gathering and strategic planning for protection.

At one end of the spectrum were a small minority of HCs/RCs for whom the protection concerns of the displaced and the civilian population were clearly an issue for discussion with the authorities, either quietly behind closed doors or, in some cases, more publicly through press statements and interviews with the media. It seemed apparent, however, that their willingness to raise protection and human rights issues stemmed more from a sense of personal conviction than as a result of UN policy or any belief that they would be supported in these efforts by headquarters. Some, in fact, expressly indicated a distinct lack of support from headquarters for these activities.

At the other end of the spectrum were those who, although aware of the protection concerns of the displaced, did not see themselves as having a role in advocating either openly or discreetly for a response from the government, even when the primary reason for the UN's presence in the country was the direct result of massive human rights violations. As one HC/RC put it: "I don't think we should make big speeches about human rights" –a role which was, in his opinion, best left to groups such as Amnesty International and Human Rights Watch. This was a view shared by other UN staff, for example, one senior UN official who argued that advocacy on human rights and protection was best undertaken by NGOs and the media because of the need for the UN to maintain effective channels of cooperation with the government.

Some interviewees pointed out that the need of the HC/RC to maintain a good working relationship with the government made it difficult to take a more assertive line on protection. As one study observed, the disadvantage of the Humanitarian/Resident Coordinator model "centres on the difficulties for the Resident Coordinator who is mandated to work closely with the government of the country in carrying out the robust diplomacy integral to the role of Humanitarian Coordinator—for example on the rights of refugees or internally displaced persons."⁶⁵

It follows that this problem may be more pronounced for Resident Coordinators who are not Humanitarian Coordinators and do not, therefore, have an express humanitarian mandate and terms of reference to actively protect internally displaced persons. Without wanting to underestimate the difficulties involved for RCs in balancing the need for close relations with the government with that of raising protection issues, failure to raise these issues will only serve to undermine the UN's credibility, as well as its stated commitment to "human rights mainstreaming" and a "human rights-based approach" to development cooperation.⁶⁶ In the words of one interviewee, "the preparation of the UN Development Assistance Framework was all very human rights focused. But when human rights violations were taking place, the UN country team was silent."



Internally displaced children living in a shantytown on hills above Medellin, Colombia.

Photograph by Hiram Ruiz, U.S. Committee for Refugees.

Some interviewees argued that taking an adversarial position against the state, in extreme cases “could threaten their [country team’s] programs, access and even presence in the country.” However, in the words of one human rights specialist, “it is no longer good enough to say ‘we have to work with the government’”.⁶⁷ No country is without human rights challenges, and public representations to the contrary are neither credible nor constructive. Nor are they in step with UN policy. Most countries, moreover, have strong political and economic reasons for wanting the UN to remain. There have not in fact been many examples of the UN being threatened with expulsion. The survey team had the distinct impression that some HCs and RCs may have exaggerated this risk to avoid raising the hard issues.

Overall, three points bear underscoring. First, HCs/RCs must be made aware of their responsibilities in regard to advocacy on protection issues. The difficulties of balancing their different roles notwithstanding, the field visits revealed a widespread lack of awareness among HCs/RCs of their responsibilities as set forth in the IASC protection policy paper and the supplementary guidance.

Of seven HCs/RCs interviewed, only three were familiar with the existence of either document and only one had actually read the policy paper. Although the development and endorsement of these papers were important steps towards a more predictable international response to the protection of the displaced, they evidently have not yet trickled down sufficiently to the field level. The interest, moreover, of the HCs/RCs in addressing

protection issues stemmed more from a sense of personal conviction, as noted above, than from institutional responsibility. It is therefore essential that HCs/RCs be made aware of their obligations to the protection of the displaced and that steps be taken to develop a system for holding them accountable for meeting those responsibilities.

UN-led advocacy***provides a more******secure context for******NGOs and civil******society to raise******human rights******concerns.***

Second, appropriate steps need to be taken by headquarters officials and donor governments to impress upon displacement-affected states that HCs/RCs are required to address protection issues. It should be made clear that it is unacceptable for governments to penalize an HC/RC for implementing his or her responsibilities. This will require the full support of headquarters and would mean not succumbing to political pressure to reassign an HC/RC to another country.

Third, it is necessary to develop a system that protects those HCs/RCs or other field staff who in carrying out their advocacy function are expelled from a country. As one former HC observed, advocacy presents a very real personal dilemma, namely, that having taken a principled stance and suffered the consequences, “headquarters—particularly the UN Secretariat—is more than circumspect about supporting such UN officials in the aftermath of their expulsions.” Clearly, this needs to change if a principled stance at the field level is to be encouraged.⁶⁸

Quiet vs. Public Diplomacy. Where advocacy efforts were being pursued by a number of HCs/RCs and country representatives of UN agencies, NGOs, civil society, and even other UN agency staff did not always know that such steps were being taken. Indeed, some humanitarian and other observers were highly skeptical as to whether the hard issues were really being raised behind closed doors if there were no indication from the UN that there was concern about these questions.

Discretion may indeed be the better part of valor in some circumstances. Raising protection issues in a discreet and confidential manner, some interviewees pointed out, is often appreciated by the authorities as it allows them to take corrective action while at

the same time saving face. Others, however, referred to the downside of too much discretion or of not speaking out at all. UN silence might discourage NGOs from undertaking advocacy efforts of their own, since UN-led advocacy provided a more secure context for NGOs to raise human rights concerns. Many considered a “united front” effective. Indeed, differences in approach could complement each other yet be united in the goal of promoting protection for the displaced.

In several cases, the perception among NGOs, civil society and the UN itself was that senior UN officials were not taking up protection and human rights issues with the authorities at all. This was considered to seriously undermine the perception of the UN as impartial and neutral, not to mention the effect on the local population, in particular the displaced.

Whereas for some, *not* denouncing the actions of one side or the other in a conflict was the most effective way of ensuring the UN’s impartiality and neutrality, for many others, silence in the face of violations was not a sign of neutrality because it helped the violator. What was needed was for the UN to take sides: the side of the victim. As one donor representative remarked regarding the failure of the UN to denounce widespread atrocities against civilians in one country: “The UN wasn’t raising issues. It should have been vocal. It’s the guardian of the [international human rights] treaties”.⁶⁹ Neutrality and impartiality are about taking a principled approach, ensuring that actions by all parties conform to international human rights and humanitarian standards.

The UN’s ability to take a principled approach to protection and advocacy of course raises complex issues. As one HC/RC remarked, if one is going to adopt a principled approach, then one has to apply the same standards throughout the world because it is not “a question of nuancing principles”. However, to others, nuancing principles is what is essential to maintaining a dialogue with the authorities and to carrying out a political mediation role. According to one country team representative, the UN’s silence on human rights in a particular country was a deliberate decision to maintain a low profile in order to avoid disrupting UN efforts at conflict resolution.

Balancing Human Rights and Political Objectives. Conflict resolution is an important means of facilitating the protection of the displaced, and is clearly one of the UN’s principal responsibilities. According to the report of the Panel on UN Peace Operations:

The [UN] was founded, in the words of its Charter, in order ‘to save succeeding generations from the scourge of war.’ Meeting this challenge is the most important function of the Organization, and, to a very significant degree, the yardstick by which it is judged by the peoples it exists to serve.⁷⁰

How though does one balance this with another of the UN's Charter-based responsibilities: to "promote universal respect for, and observance of human rights and fundamental freedoms for all,"⁷¹ especially for those caught in the midst of armed conflict?

In one of the countries visited, some members of the country team referred to the UN's "unwillingness" to express concerns about a government policy that was supported by a leading donor but that caused displacement and had a negative impact on human rights. In another country, the UN country team considered the displacement issue to be a "forbidden area" which the UN was "not supposed to look at, have an opinion on or allude to in any official manner." The UN's position had "existed for years and ... was, if not *de jure* at least *de facto*, accepted by UN headquarters."

A number of UN staff expressed concern over the subjugation of human rights and protection issues to political concerns, especially in the context of UN peace operations. As one staff member remarked:

The political environment won't allow us to do anything that would impact negatively on a peace and reconciliation agenda. We have to recognize the conflict between the political and human rights agenda.

Another referred to the "frustration" of being a human rights officer in a UN peacekeeping mission, stating that "[your views are] not a priority". Elsewhere, a member of a peace operation noted that "sometimes we are told there are some issues we can't investigate" –which seems to contradict the importance attached by the Security Council to ending impunity for those responsible for serious criminal offenses.⁷²

These examples raise concerns about the freedom of action of the humanitarian/human rights side of the UN *vis-à-vis* the political side, which often has the final say in the UN's approach. Yet the political side also has a key role to play in advocacy, in particular when there is a political, peace-building or peacekeeping mission in the country under the authority of a Special Representative of the Secretary-General (SRSG).

Role of the Special Representative of the Secretary-General. On paper, the role of SRSGs in advocacy on protection issues is not immediately apparent. A strong case, however, can be made for their active engagement in taking up the protection of the displaced. To begin with, the protection policy paper, while not referring to SRSGs, does require that information on violations be brought to the attention of those in a position to act, which "includes" but is not limited to the HC/RC, OHCHR and ICRC. Moreover, these actors are expected to make representations to the competent authorities or other parties, including UN peacekeeping and police forces, which are under the SRSG's authority.

Special Representatives also have the responsibility to provide “overarching leadership” to the UN country team.⁷³ As such, it is incumbent upon them, as the senior UN official in a country, to undertake advocacy efforts at the suggestion of the HC/RC and country team and support their efforts. Indeed, an SRSG’s failure to support the advocacy efforts of the HC/RC and country team could serve to undermine their work. A government is less likely to treat the concerns of the humanitarian side of the UN with seriousness if the political side is not supportive or, worse still, dismissive of those concerns.

Assuming that there is a case to be made for SRSGs to undertake and support advocacy efforts, it would be useful, if not essential, to spell this out in clearer and more explicit terms. Indeed, the field missions revealed that the role of SRSGs (who were present in five of the countries visited) in raising protection concerns and advocating for the rights of the displaced was limited or at least unclear to many observers, including UN staff. In fact, in some cases SRSGs did not consider that they had a role at all in this respect despite the relevance of protection issues to the country concerned and the potential impact of these issues on ceasefire agreements and peace and reconciliation negotiations which SRSGs were there to support and foster. As one interviewee pointed out, it was precisely because of the instability caused by the current human rights and humanitarian situation that the UN was in the country in question.

The importance of clarifying the role of SRSGs is also pertinent to the growing UN practice of deploying “integrated” missions, such as in Afghanistan, East Timor, Sierra Leone, and Iraq. In these missions, the HC/RC serves as one of the deputies to the SRSG—a practice which some argue should “be emulated wherever possible.”⁷⁴ If the SRSG in such situations does not undertake advocacy efforts, it is not clear to what extent an HC, as a deputy to the SRSG, would be able to do so. Moreover, is it desirable for the deputy to raise protection concerns if they do not appear to be coming from or, at a minimum, supported by the SRSG?

In all integrated missions, the Deputy SRSG should maintain a reporting line to the ERC in order to ensure that appropriate steps are taken to respond to protection concerns. Similarly, the chiefs of the UN human rights sections of peace operations should maintain a direct reporting line to the High Commissioner for Human Rights and be able to count on the High Commissioner’s support in raising protection concerns with the appropriate authorities.

Staff security. Staff security is another important factor influencing the willingness of senior field staff to raise protection concerns, particularly in a public manner. As pointed out in the policy paper, “the safety and security of field staff must be taken into account” in undertaking advocacy efforts. The murder of two senior UN officials (as well as three ICRC delegates) in one country visited, combined with a totally inadequate response to

the killings by UN headquarters and other parts of the system, served to deter staff, including senior agency staff, from reporting on and speaking out about abuses.

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The unresolved cases of staff security also created a reluctance and fear among humanitarians about going to the field without armed security guards. Yet the situation becomes even more complicated when the UN hires armed security guards, and they come from one of the parties to the conflict whose forces may be implicated in human rights violations (and are dressed in military uniform while performing their security functions). These forces are then placed in a position to make or strongly influence UN security decisions. Yet they may well be (and in one country visited by the team, were) motivated to deny humanitarian access to areas where government forces were engaged in violations. To place trust in the security evaluations of such actors constitutes, in the view of the survey team, unsound and even unethical practice. Moreover, once such "assistance" has been contracted, it is difficult to extricate the UN from these arrangements. The team was disturbed by the fact that its visits to IDPs in one country were accompanied by members of the same military force responsible for the displacement.

At Headquarters

Responsibility for advocacy also extends to UN headquarters. Indeed, as the policy paper points out, information on the displaced should be brought to the attention of those at UN headquarters assigned to advocate for their protection.

The Emergency Relief Coordinator, the High Commissioner for Human Rights and the Representative of the Secretary-General on Internally Displaced Persons.

The ERC is in a position to draw attention to protection concerns when he addresses the Security Council and contributes to the Secretary-General's reports to the Economic and Social Council (ECOSOC) and the General Assembly. Furthermore, the ERC and the High Commissioner for Human Rights, as members of the UN's Executive Committees on Humanitarian Affairs (ECHA) and Peace and Security (ECPS), are in a strong position to pro-

mote an active and concerted response from within the UN system to protection problems. The annual reports of the Representative of the Secretary-General on Internally Displaced Persons to the Commission on Human Rights, as well as his contacts during country visits, provide additional platforms for high-level advocacy. Mention should also be made of the Representative's biennial reports to the General Assembly and his mission reports to the Secretary-General and the Inter-Agency Standing Committee Working Group.

At the same time, access to the Security Council is limited. The previous ERC briefed the Security Council on specific country situations on only two occasions in 2002, both times in relation to Angola. Moreover, in both cases the briefings (which focused on the general humanitarian situation rather than on specific protection concerns) were undertaken at the request of the Council. Despite what the policy paper and supplementary guidance may prescribe, discussions with headquarters officials reveal that it is not a given that the ERC can request to brief the Council on specific concerns relating to the displaced. This situation should be reviewed as a matter of importance.

The reports of the Secretary-General to ECOSOC and the General Assembly, and for that matter, the Security Council, provide an important avenue for drawing attention to particular country situations and protection concerns. The same applies to the reports of the Representative of the Secretary-General on Internally Displaced Persons to the Commission on Human Rights and the General Assembly. However, in terms of responding to urgent protection concerns, including cases of impending displacement, such reports are of limited value since they are generally submitted on an annual basis. That said the Representative has prepared interim reports and provided briefings on country missions to the IASC Working Group and on occasion also to ECHA. Consideration should be given to his also providing briefings to the Security Council.

The Secretary-General's reports to the Security Council on specific country situations are issued on a more regular basis. However, there is still a significant time lag between their drafting and submission to the Council. Moreover, some country teams informed the survey team that they were not always consulted on the content of these reports or requested to contribute to them, thus missing an important opportunity to raise concerns.

When it came to direct advocacy with the governments concerned, just as HCs/RCs were criticized for their perceived and actual reluctance to raise protection concerns in an assertive manner, the same criticism was leveled at headquarters officials. Part of the problem may lie in the fact that advocacy efforts by headquarters officials, such as the ERC, the High Commissioner for Human Rights and the Representative of the Secretary-General on Internally Displaced Persons, may be pursued through private meetings with diplomats in Geneva or New York, or through confidential correspondence.

The problem may also lie in the fact that some HCs/RCs may not call upon them to become involved. They may prefer to deal with issues in-country rather than bringing in support from outside which might be viewed as interference. For instance, although the supplementary guidance provides that HCs/RCs should advise the ERC of possibilities for the Representative of the Secretary-General to intercede with national authorities in support of the displaced, this has happened in only a few cases. While HCs/RCs may prefer to deal with issues in-country, the ERC and the High Commissioner for Human Rights are aware of country situations courtesy of information submitted by the field to their respective desk officers in New York and Geneva. Thus, while support may not be requested, the ERC and High Commissioner should nonetheless seek to offer it as appropriate. Ultimately, there is a case to be made for greater field-headquarters dialogue in order to ensure that their respective advocacy efforts are mutually reinforcing and constructive in furthering efforts for improved protection of the displaced.

While discreet forms of advocacy are often pursued by headquarters, and while headquarters-driven efforts may, at times, be regarded by country teams as interference, there is nonetheless an overall perception in the field that headquarters is not as supportive in its advocacy efforts as it could and should be.

Particular emphasis was placed by UN field staff on the need for more visible support in terms of advocacy from three officials in particular: the High Commissioner for Human Rights, as the UN official expressly mandated to seek “the full realization of all human rights”;⁷⁵ the ERC, as the system’s focal point for internally displaced persons; and the Representative of the Secretary-General on Internally Displaced Persons as the “global advocate” for the internally displaced. The expectation was that these three actors could and should play a more active role in pressing governments, UN agencies and regional bodies to prevent or halt abuses, address the protection needs of the displaced, and end impunity for those who violate international law. Of course, they will need support from the Secretary-General’s office and UN member states committed to these ideals—a tall order given the competing political interests that arise in crisis situations.

In one of the countries visited, staff members of the Office of the High Commissioner for Human Rights expressed their deep concern over the perceived lack of support from headquarters when it came to high-level advocacy. One recalled being told by headquarters that “the High Commissioner has too much to deal with.” Another observed that OHCHR does not see responding to humanitarian emergencies and the displaced as its responsibility. The Office played a limited role in the Inter-Agency Standing Committee and its Working Group, which deal with humanitarian emergencies, the one exception being its involvement in the Reference Group on Human Rights and Humanitarian Action. It should also be noted that OHCHR has established a post dedicated to mainstreaming human rights into humanitarian action.

Yet the survey team noted with great concern agreements with some governments to limit OHCHR's role to the provision of "technical assistance". Many human rights monitors and others expressed dismay, even outrage, that the UN would agree to keep its staff focused on technical assistance in the capital while massacres were being committed and not investigated in other parts of the country. Should OHCHR accept such a limited role, when a government seeks to demonstrate progress by inviting in OHCHR but has no intention of allowing investigations of human rights violations and there is a record of total impunity?

In another of the countries visited, OCHA staff pointed out that it was not always a case of lacking headquarters support but finding that headquarters pursued its own priorities over those of the country team. For instance, staff expressed frustration that talking points prepared for a briefing to the Security Council by the ERC had been re-written at headquarters and no longer reflected what the country team saw as the key issues for the Council's consideration. As one staff member emphasized, "headquarters should not be making political judgments on behalf of the country team" without, at a minimum, prior consultation; advocacy efforts needed to be far better coordinated.

At the same time, it should be noted that the previous ERC and Deputy ERC demonstrated a willingness to raise protection issues by issuing press statements or holding press briefings, doing so on seven occasions in the course of 2002, though less so in 2003. The role that the Director of the Internal Displacement Division (formerly the Unit) can play should also be explored. In 2003-4, the Director of the Unit issued only one statement and jointly with the Representative of the Secretary-General on Internally Displaced Persons.

The approach of the Representative to his mandate is well-known and has been summarized by one commentator as emphasizing collaboration and dialogue with states rather than direct denunciation—"low key" in contrast to the "high decibel" approach used by many human rights NGOs.⁷⁶ The basis for this approach is Commission on Human Rights and General Assembly resolutions that call upon the Representative to "dialogue" with governments in contrast to the Commission's "special rapporteurs" who are mandated to investigate human rights violations.

There is much to commend this approach, as testified to by the significant achievements of the mandate since its creation in 1992. Moreover, the Representative has issued public statements on specific country situations, as well as pursued more discreet forms of advocacy such as direct dialogue with government officials, correspondence and confidential appeals relating to specific protection problems, including impending displacement.

However, the question has been asked whether the time has come for the Representative to raise the level of his voice.⁷⁷ He has himself acknowledged that there are times when this

would be appropriate, noting in January 2000 that the countries on which he has focused attention through country visits are, paradoxically, those that acknowledge the problem and which cooperate in permitting him to study it first-hand. "And yet countries with serious situations of internal displacement that deny the problem or bar access cannot shield themselves completely from international scrutiny... To draw attention to such situations, different approaches are required. One approach ... is that of issuing statements of concern."⁷⁸ It should be noted that the Representative does issue country-specific statements at the end of missions and may refer to specific country situations in his annual statement to the Commission on Human Rights and other UN bodies. He has also raised concerns about specific countries at meetings of regional bodies and at conferences and seminars at which government officials and local media were present, thereby improving the chances of the message reaching those for whom it was intended. He further has issued public statements in regard to particularly acute or deteriorating situations. However, he should consider issuing these sorts of statements more frequently, such as in cases of imminent displacement or forced return, or widespread and systematic violations of the rights of the displaced, or where access is denied and where public pronouncements may be more effective than quiet diplomacy in drawing attention to, and shaming a government into changing its behavior.

Indeed, there is no shortage of countries where access is denied and the displacement problem ignored or minimized. Such situations require exposure to public scrutiny and more assertive response from UN agencies on the ground and from UN headquarters and the Security Council. Taking such assertive action of course may lead to denial of access for a mission to the country. But a failure to speak out due to the expectation of an invitation to visit is a trade-off which, in the absence of the anticipated mission, serves only to favor the government concerned, enabling it to continue to evade public scrutiny and UN pressure or influence.

This is in many respects symptomatic of a broader system-wide problem concerning the failure to exploit opportunities for advocacy and intervention due to poor risk assessment, i.e. unfounded or excessive fear on the part of UN officials that a government or *de facto* authority will react negatively to increased engagement. As the Representative observed in the report of his mission to Turkey, as a result of the Government's apparent sensitivity to the internal displacement issue, UN agencies in the country "avoided open discussion of the problem with the authorities and refrained from providing protection and assistance to those displaced, except within the context of projects implemented in areas of the country in which the displaced were located, but for which they were not specifically targeted".⁷⁹

Returning specifically to the Representative as the "global advocate" for the displaced, it might be argued that it is not only incumbent upon him to hold governments (beyond those to which he undertakes missions and issues statements on) accountable for their actions *vis-à-*



An old trailer near Yevlakh, Azerbaijan, was the only shelter that this Azeri family, displaced by fighting in 1994 between Armenia and Azerbaijan, could find.

Photograph by A. Hollomann/UNHCR.

vis the displaced but also to be seen as doing so. The importance of a more proactive and public approach from the Representative is also underlined when one considers that he exercises a greater degree of independence from the UN system than is the case for other high-level officials such as the ERC and the High Commissioner for Human Rights. He is, to use the parlance of the UN human rights system, one of the “special procedures” or “independent experts” of the Commission on Human Rights. As such, he can issue statements in a more expeditious manner than may be the case for either the ERC or the High Commissioner.

At the same time, the approach of his mandate is different and there may be limits to what he can say in view of the fact that he represents the Secretary-General and indeed, needs the support and backing of the UN system. It should also be noted that an increased role in this direction would require strengthening the mandate in terms of capacity and staff support, which is currently minimal, the position being a voluntary one.

Inter-Agency Standing Committee. Beyond the roles of these individual officials, reference should also be made to the potentially significant role which could be played by the Inter-Agency Standing Committee, consisting as it does of the heads of the UN’s human rights, humanitarian and development agencies. “Common stands by agencies can be particularly effective,” the policy paper observes. They also can “reduce the risks related to agencies acting separately or alone.”

Yet common stands by the members of the IASC have been relatively few and far between. Since 1995, the Standing Committee has issued six statements referring to specific country or regional situations—Somalia, the Great Lakes region of Africa, Burundi, the Occupied Palestinian Territory and Southern Africa (twice). Only one of these directly concerned the situation of the displaced, the statement on forced relocation in Burundi.

Interviews with HCs/RCs revealed that most had never considered turning to the IASC for support with advocacy. Furthermore, the survey team found that there is little awareness among field staff of the Standing Committee's role, let alone that the field can make claims on its time.⁸⁰ This should not, however, preclude the IASC from taking a more proactive approach to offering its support. This is a role which could and should be fostered by the ERC as Chair of the Standing Committee and should be linked to raising awareness among UN field staff and others of this avenue of support for the protection of the displaced and of civilians more generally.

The work plan of the IASC Working Group for 2004 includes an initiative on "advocacy", according to which the ERC and member agencies can use the IASC as "an instrument for raising humanitarian concerns to the international agenda," in particular by going to forums such as the Security Council and General Assembly.

UN Commission on Human Rights. A more proactive approach to advocacy for the rights of the internally displaced might also be played by the rapporteurs of the UN Commission on Human Rights. Three of the countries visited by the survey team came under the purview of a Commission rapporteur, and UN and some NGO staff acknowledged the important role these actors played in focusing attention on the human rights situation, including the displaced, and raising concerns directly with governments. However, there was a sense that the rapporteurs concerned did not undertake country missions as frequently as warranted by the situation. Moreover, it was suggested that rapporteurs do more advocacy outside the context of missions, by issuing public statements or urgent appeals to governments in response to specific protection issues concerning the displaced, working at times jointly with the Representative of the Secretary-General.

The question is whether these steps are being taken frequently enough. Of the three rapporteurs noted above, one has not issued any public statements outside the context of missions since his appointment in 2001, another has issued two public statements since 1999 concerning the human rights situation in the country and the third, while more prolific (four statements were issued during the first six months of 2003), did not refer to the situation of the displaced in these statements despite the significance of the issue. Concern was also expressed over the fact that one rapporteur had not visited the country for over 12 months. Though this was in part due to health reasons, the rapporteur had

not relinquished the post to someone who could have undertaken a mission during a crucial period in the human rights situation in the country. The individual circumstances of the rapporteur, rather than the needs of the affected population, seem to determine the frequency of visits, the level of engagement and the quality of the follow-up to ensure progress. That said, one must take into account the fact that rapporteurs occupy part-time, voluntary positions (like the Representative of the Secretary-General) and that the resources available for missions from OHCHR are limited: mandate holders can expect to take only two to three missions per year.

Reference was also made by interviewees to the need for the Commission's rapporteurs to make their existence known beyond the human rights community to humanitarian actors. An effective follow-up mechanism for their recommendations also needs to be established.

UN Human Rights Treaty Bodies. A similar point applies to the UN's human rights treaty bodies which monitor the implementation of agreements, such as the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, and the Convention on the Rights of the Child, to name but three. Again, the survey team found very limited awareness of the existence of these bodies among country teams and national NGOs and civil society groups. This notwithstanding the potential of these bodies to provide a forum for raising concerns about the displaced through their issuance of "concluding observations" requesting specific actions from state parties, which could be used by country teams in their advocacy efforts. In addition, some of these bodies have individual complaints procedures which might be used by internally displaced populations.⁸¹

Donor and Diplomatic Community

Looking beyond the UN, a potentially significant ally in terms of advocacy is the donor and diplomatic community. In a number of countries visited, interviewees noted the important role that these actors could play in advocating with governments for the rights of the displaced. In one of the countries, OHCHR organized regular monthly human rights briefings for members of the diplomatic and donor community to update them on human rights and protection issues, including IDP concerns. The purpose was to stimulate greater advocacy efforts with the government.

In another country visited, the survey team was struck by the strong stance taken by the donor community with regard to the protection of the displaced. The donor community presented an assertive and "unified" front to the government and, at the time of the visit, this seemed to bear fruit. Interviews with representatives of the donor community revealed that the HC/RC and the OCHA office in the country concerned had played an

important role in keeping donors informed, including through weekly briefings. Some donors also noted that aside from being a useful forum in which to exchange information, regular briefings promoted a degree of informality among donors and agency representatives which facilitated the flow of information by allowing contacts through less formal means such as by telephone or email.

In another of the countries visited, donors were credited with developing a “superb” document linking development assistance to adherence to basic human rights principles. Making development assistance conditional on respect for human rights was an important initiative in this case, given the levels of assistance at stake. The document also advocated for the adoption of the Guiding Principles on Internal Displacement to support the process.

In other countries, the role of the donor and diplomatic community was regarded in a far less positive light. An important element in the examples referred to above was that the donors shared, by and large, a common position *vis-à-vis* the issues at hand. However, as several interviewees noted, a common position is not always possible given individual political and commercial interests, which may take precedence over concern about the human rights situation and willingness to undertake advocacy initiatives on behalf of the displaced.

Even when donors are motivated to assist IDPs, their capitals may have other interests, which may not be compatible with humanitarian aims. Yet the considerable resources provided for humanitarian programs can be undermined by the failure to address human rights violations. The difficult question for donor agencies is what to do when protection is sidelined by political interests, even as the money for humanitarian aid continues to flow. The ethical considerations are of course complex. Does one reduce the aid and thereby risk harming the persons in need, or does one remain complicit in violations and carry out a policy at variance with humanitarian principles? In one country, for example, a major donor agency was providing humanitarian assistance to respond to a displacement situation that was, in part, the result of that same donor’s broader domestic and foreign policy.

It was also noted that political and commercial interests which donors are keen to protect can provide some measure of leverage with the governments concerned. What is too often lacking, however, is the will to use that leverage.

Regional Organizations

Attention is needed to the role regional organizations can play in supporting the advocacy efforts of the UN or undertaking advocacy efforts of their own. Organizations such as the African Union (AU), the Council of Europe (COE), the Organization for Security and

Cooperation in Europe (OSCE), the Organization of American States (OAS) have extensive human rights mandates, including human rights presences in certain countries, rapporteurs who monitor conditions and judicial mechanisms that provide a solid basis on which to raise protection concerns with the member states of those organizations.

Regional organizations should be approached to raise issues in support of the UN's efforts in protection or in their own right. Indeed, there may be situations in which a regional response may be more appropriate. Internal armed conflict and displacement often have consequences for neighboring states, which can motivate regional bodies to promote resolution of these crises. Joint advocacy efforts with the UN, such as the issuance of joint statements, should also be considered.⁸²

International Human Rights NGOs

Other potential allies in advocacy are advocacy-focused NGOs such as Human Rights Watch, Amnesty International and Refugees International. As noted above, one HC/RC actually considered it the responsibility of these organizations, rather than the UN, to make the "big speeches" about human rights in a given country. Although this is a view to which the authors do not subscribe, increased engagement of such NGOs by UN agencies and country teams warrants serious consideration.

Questions about Impunity and Neutrality

There is a great deal of support among humanitarian organizations for the International Criminal Court (ICC). Whereas most are reluctant to be vocal about violations, they support accountability for international crimes and human rights violations and often identify those responsible either explicitly or by implication. Others while remaining silent pass on information to those with human rights or protection mandates. Indeed, remaining silent altogether is an approach which has fallen more and more out of favor and often is based upon a failure to understand the principles of neutrality and impartiality.

Neutrality after all does not mean passivity in the face of abuse – whether forced displacement, ethnic cleansing, obstruction of return, or other protection problems. The ICRC, for example, may remain *publicly* silent about accusations against specific belligerents, but regularly raises concerns with those believed responsible and on rare occasions will speak out publicly about abuses by one side in the conflict. It also publicly raises concerns about violations of international humanitarian law more generally. Overall, however, what the ICRC does, and does very well, is to maintain a balance by raising concerns with *all* parties to the conflict. In order to guard its neutrality, ICRC does not transmit information to war crimes tribunals, as human rights bodies do.⁸³

Should humanitarian organizations be more vocal about impunity? They certainly have a strong interest in seeing an end to attacks against those they serve and, given their proximity to victims and witnesses, they have direct knowledge about the consequences of impunity. Although only some have been willing to speak out about the need for accountability, it is hoped that all will see the importance of pressing the UN, regional bodies and UN member states to demand an end to impunity. As the UN Secretary-General observed:

Internationally recognised standards of protection will be effectively upheld only when they are given the force of law, and when violations are regularly and reliably sanctioned. The establishment of the *ad hoc* tribunals for the former Yugoslavia and Rwanda, and the adoption of the Rome Statute to establish a permanent [ICC] are important steps in this direction.⁸⁴

These steps should be complemented at the field level by advocacy efforts that reinforce the message to actual and would-be perpetrators of abuses that, as one UN official so aptly put it, “there’s an ICC and you might end up there.”

When Advocacy Fails

While the view from the field is that a more supportive and visibly proactive stance on protection issues from headquarters would be welcome, public statements and press briefings by senior officials are not a panacea. What is important is to use public stances on protection strategically within the context of more discreet but vigorous and sustained diplomatic efforts supported by the Secretary-General and donor governments.

But there is a difficult issue here, namely what steps can the UN and its partners take in the event that, as one UN staff member put it, “our tough talk does not produce the desired outcome?” Should, for instance, the international community make continued humanitarian and development assistance dependent or “conditional” on respect for human rights?⁸⁵

Should one insist that governments be attentive in equal measure to both protection and assistance needs, given the negative effect that protection problems can have on humanitarian assistance and development projects? A pertinent example was provided in one country where the government was collaborating closely with the UN agencies providing assistance and capacity-building support for IDPs. However, the same level of cooperation was not forthcoming towards international human rights presence in the country since the human rights team had produced critical reports about protection of the internally displaced, which either had been ignored or forcefully contested by the government. In situations such as these, should UN agencies, NGOs and donor governments provide

strong joint support for the UN's human rights office by threatening to or withholding humanitarian and development assistance (other than immediate life-saving assistance)?

Another equally difficult issue is at what point should the UN assume direct responsibility for the protection of the displaced and civilians more generally? After all, it is first and foremost the responsibility of governments to meet the assistance and protection needs of their displaced populations. Other actors therefore should support, not substitute, for the protection responsibilities of the authorities. However, when the authorities fail to meet their responsibilities and are clearly unwilling to do so, at what point does it become legitimate for the primary responsibility for protection to shift from national authorities to regional or international actors? How should the UN respond when a government evades its responsibility by refusing to fund humanitarian programs but enriches a few or spends millions upon weapons and the military? How extensive do human rights violations have to be for the UN and other actors to step in?

Engaging Non-State Actors

With internal armed conflict constituting one of the main causes of internal displacement, strategies are needed for engaging not only government authorities but also the other parties to the conflict. The protection policy paper speaks about the importance of engaging rebel or guerrilla forces in efforts to protect the internally displaced. It notes that such efforts should be integrated into the overall coordination plans of the HC/RC and should retain a strictly humanitarian character. The Secretary-General has reinforced this message by pointing out that:

..it is critically important that humanitarian actors are able freely to make contact with non-state actors and to negotiate fundamental issues like humanitarian access, regardless of relationships between the State and the rebel groups.⁸⁶

Despite the difficulties, the survey team found that in a number of countries, efforts to engage non-state actors were being pur-

UN country teams should be permitted to engage with non-state actors to negotiate humanitarian access and promote humanitarian and human rights principles.

sued by country teams, albeit in very difficult and politically complex environments.⁸⁷ Indeed, governments are reported to regularly deny access to areas controlled by non-state actors on the grounds that doing so would lend legitimacy to these actors. Humanitarian staff complained in a number of countries that they were prohibited by the government concerned or by senior UN officials from having any official contact with non-state armed groups to discuss access or protection issues. According to one official from a UN political mission, while recognizing the importance of establishing contact with rebel forces, he did not consider that the HC/RC had a mandate to do so and felt that he would become *persona non grata* if he tried. Such a view cannot be reconciled with UN policy guidance as well as the abovecited report of the Secretary-General.

In this and other countries, establishing contact with non-state actors was considered to be the responsibility of the Department of Political Affairs (DPA) and its political and peace-building representations or of SRSGs in the countries concerned—despite the fact that the UN’s guidance on relations between SRSGs and HCs/RCs provides that the HC “is responsible for the planning and coordination of humanitarian operations and will maintain links with the government (and other parties to the conflict) for this purpose (88).” Moreover, interviewees in at least two countries expressed concern that political representations of the UN did not take up issues of humanitarian access or protection with *any* of the parties, whether non-state armed groups or government forces.

In one country, a senior UN official in a political mission said that pushing the government and opposition groups to allow humanitarian access was not something they had considered despite their contact with both parties and the overarching importance of the issue for the humanitarian objectives of the UN. It was clearly a missed opportunity, especially since a regionally-led initiative to resolve the conflict was underway in the country, yet no integration of humanitarian and human rights issues was apparent.

Clearly, if the UN’s humanitarian side is prohibited from making the necessary contacts and the political side fails or refuses to do so, access and the provision of life sustaining assistance and protection to the displaced and others at risk is simply not possible. The problem is further compounded by the reluctance of international and national NGOs to fill this “negotiation vacuum” because their actions may be characterized by the government as support for the rebel cause and thereby create problems for the safety of humanitarian personnel and the ability to carry out humanitarian programs in the country.

Peace Negotiations. One potential way to engage non-state actors is by making the most of windows of opportunity presented by ceasefires and peace negotiations to raise issues of access as well as respect for human rights and humanitarian law. In one country visited the HC/RC and country team used the occasion of a national reconciliation

process to obtain the agreement of the various warring parties to recognize the right of the civilian population to receive humanitarian assistance, to guarantee the security of all humanitarian personnel and installations and to enhance the population's access to aid. Moreover, this agreement came in the form of an article contained in the "Declaration on Cessation of Hostilities, Structures and Principles of the National Reconciliation Process" signed by the warring parties and witnessed by neighboring states and donor governments. As such, it provided the HC/RC and the country team with a useful tool for advocating with the parties for improved access to humanitarian aid.

In some countries visited by the survey team, the UN was slow to engage in peace processes and therefore missed opportunities to advocate for displaced persons and take a stand on issues such as impunity. Sometimes this was due to valid concerns that UN participation could confer legitimacy upon actors who were not believed to be seriously engaged in the peace process. However, there was also a lack of creative thinking. Two examples are instructive. In one instance, talks were initiated but no senior UN officials or diplomats turned up to insist upon humanitarian principles of access and security for humanitarian operations. To be sure, there were concerns about the sincerity of the parties to the talks, but the absence of senior personnel was viewed by those interviewed as a missed opportunity. The gathering after all provided an important chance to issue a warning that ongoing violations of humanitarian and human rights law would lead to consequences.

In another case, the negotiations raised some ethical issues. One of the parties to the conflict, which had previously been engaged in forced recruitment of child soldiers, had also become a key actor in the demobilization plan. The plan involved hiring members of the insurgent group to run centers for demobilized children. However, given the risk of renewed conflict and a dwindling number of voluntary adult recruits, it was unlikely that the group, according to observers, would actually encourage children to demobilize. Moreover, in the discussions between the UN and the armed group, the UN sought to secure the release of a specific number of children each month rather than insist upon a blanket demand that *all* children be released immediately to neutral third parties who could ensure their protection. Even if it were unrealistic to expect the immediate release of all children, the idea of negotiating freedom for a certain number of children per month was disconcerting not just on principle but because of the time involved in such a slow process. Further, it was clear that the demobilization was not being conducted in good faith by the party involved as it continued to mobilize children during the negotiation process.

The team found that where there is strong UN human rights presence and expertise or a high level UN official participating in the process, human rights concerns are more likely to make it to the negotiating table. The UN should therefore explore how to ensure that

issues, such as humanitarian access, violations of ceasefires and peace agreements, safe returns, mine action and demobilization of child soldiers, are raised early on in the peace process so that human rights experts have a seat at the table from the outset.

Prevention, Early Warning, International Presence, and Preparedness

The UN system, according to its protection policy paper, is supposed to engage in preventive activities in order to diminish the risk of displacement. A protection perspective and a displacement risk assessment are supposed to be integrated into all early warning analyses in countries and communities where displacement has occurred or where human rights violations are occurring and may lead to displacement. Clearly, supporting early warning initiatives can strengthen the ability to anticipate situations causing displacement.

UN field staff, NGOs, international organizations and local authorities should therefore be encouraged to communicate information on impending situations of displacement to the HC/RC and other responsible agencies. In turn, these actors should inform the IASC-Working Group, the ERC and the Representative of the Secretary-General on Internally Displaced Persons.

Preventive Action. The absence of UN human rights monitoring and reporting mechanisms in the majority of countries visited effectively precludes the ability of country teams to undertake meaningful preventive action.

There is need to establish a system that requires field staff to convey information about protection to those in a position to act in order to improve the chances for identifying the location and timing of future violations, including forced displacement. An effective system can stimulate the development of preventive protection strategies, such as increasing international presence, requesting members of the diplomatic community or senior UN officials to intercede with the relevant authorities, and pre-positioning emergency relief items such as food, medicines and shelter in the event that preventive measures fail.

That said, in one country, it was apparent that even though there was no formal UN monitoring and reporting system, information pertaining to impending displacement was made available on a systematic basis by the NGO community and the national authorities on the basis of information compiled through their own monitoring systems. The information collected by national authorities and NGOs in the field was then transmitted to the capital where it was analyzed and a risk report prepared. This report was transmitted to a government committee consisting of the Vice-President and the Ministers of Defense and Interior, which then decided whether the risk assessment required a response.

Those drafting the risk reports often proved reliable in predicting massacres, assassinations and displacement. Unfortunately, the government committee consistently deemed that a response was not required. Its “no action” approach, in the judgment of one well-informed interviewee, amounted to a deliberate failure to prevent violations, motivated by political and military objectives, often contradictory to the goals of the early warning system. Some participants in the early warning system nonetheless earned the respect of human rights and civil society groups as well as communities of displaced persons, who felt they had an advocate. However, communities will be less inclined to take the risk of providing information when possibilities for response are remote and the government is perceived as insincere. UN involvement in such cases would be desirable. If risk reports were shared with UN agencies, they could take steps, such as increasing presence in the areas concerned and interceding with the authorities. UN involvement might also head off a military response by the government, which could cause more problems than it solves.

At the same time, an NGO-led monitoring system in one country encountered problems with the UN response. The NGO system routinely provided early warnings to the UN of impending displacement and other human rights violations. However, the NGO reported an inconsistent response from the UN country team to its warnings, which seemed to depend on what hour of the day and what day of the week the warning was issued. Weekends were considered a particularly inauspicious time to issue warnings since there was no mechanism for obtaining a response from the UN on weekends.

The country team, at the time of the survey team’s visit, was in the process of developing an early warning and rapid response capacity. It revolved around information collection and analysis by an inter-agency “humanitarian situation room” which would identify situations of impending displacement. On the basis of that information, a “rapid response unit” would be dispatched to the area to enter into discussions with local military and police as well as community leaders with a view to resolving the situation. In the event that such steps proved unsuccessful and displacement occurred, humanitarian staff would be in place to respond to the needs of the population. As of this writing, steps had not yet been taken to recruit the needed staff and put the system in place.

Awareness-raising. Another important element of preventive action is making endangered populations aware of their rights. As the policy paper notes, through human rights training, awareness campaigns, and advocacy with local leaders, communities can be empowered to protect themselves and reclaim their rights. In particular, local organizations and the internally displaced themselves should play an active role in providing information on imminent situations of internal displacement to the UN, the Red Cross, NGOs, and national human rights actors.

The presence in the field of international humanitarian staff had a deterrent effect on those committing abuses.

In a number of countries, activities of this sort were being undertaken either directly by UN agencies and NGOs or indirectly through UN support of local NGOs and civil society groups. However, a greater focus on such activities would be welcome. In addition, it is important for UN agencies and other actors to try to help the displaced exercise their rights by interceding with the authorities; helping establish legal counselling services accessible to affected people; and engaging in rebuilding, strengthening and reforming the local and national judiciary and law enforcement agencies. As one interviewee noted, “what is the point of human rights awareness if there is no mechanism for delivery?”

Protection through Presence. Establishing an international humanitarian presence among internally displaced persons is often an important step towards ensuring their protection. In the words of the protection policy paper, experience “suggests that in certain circumstances, the presence of expatriates ‘watching and listening’ has, at times, been found to deter, or at least mitigate, human rights violations.”

The significance of international presence was a recurring theme in the interviews, with unanimous agreement that the presence of international humanitarian staff had a deterrent effect, albeit not absolute, on those committing abuses and provided a sense of security for the displaced and the civilian population. One humanitarian aid worker made the poignant observation that “people feel that having someone there means someone is watching and if something happens, [at least] someone will know.”

The importance attached to the presence of expatriates in the field came as no surprise; nor did the variations in the levels of presence in the different countries visited. In one of the countries, where there was extensive humanitarian presence, including UNHCR protection officers, an internal UNHCR report observed that:

its continuous presence in areas of IDP concentration, including areas controlled by [opposition forces], to

ensure access to UNHCR by concerned populations was a fundamental necessity for successful protection and programme activities.

It continued that:

UNHCR's highly visible presence in these areas is seen to have a positive effect on its protection of the displaced. By way of example, through its presence, UNHCR was able to learn of problems facing IDPs, share information on problems facing IDPs with other agencies, develop and prioritise responses to these problems and follow-up after the fact as to the outcome of its intervention. Equally, UNHCR's physical presence in areas of tension often helped to defuse tense situations and avoid violence.

In other countries, the UN's presence was less extensive, there were fewer protection specialists, and staff tended to be concentrated in the national or provincial capitals.

The extent of international presence in any given country is of course influenced by a range of variables, such as the level of access, the security situation, staffing levels, and the availability of resources, some of which are more easily addressed than others.

Whatever the level of presence in a given country, interviewees from all backgrounds called for current levels to be increased—both the numbers of expatriate staff and their “visibility” in the provinces. In addition, they asked that international presence be meaningful. “Watching and listening” were not always sufficient. “International presence alone,” in the words of one observer, “will not bring protection. The presence must be conscious, forceful, courageous. It must be an engaged presence that is not afraid to resist injustice and cruelty.”⁸⁹

Yet, in some of the countries visited this clearly was not the case. One NGO, with whom the survey team met, remarked that the UN needed to make its presence felt far more. On joint missions, UN agencies acted as if they were there merely to accompany NGOs—“they don't make people think their role is important.” Elsewhere, interviewees complained that they had to “remind” protection staff to undertake regular visits to camps for the displaced, despite credible information that serious protection problems were imminent.

Providing a meaningful presence requires two things. The first is appropriate training for field staff so that they understand what is required of them in the area of human rights and protection. All field-based staff, national and expatriate, from program officers to sanitation engineers, must be made aware of their personal and organizational responsibilities toward the protection of the people they are there to serve.

Although in some countries, steps in this direction are being taken, training needs to be given on a more systematic basis with protection issues integrated into needs assessments, planning programs and evaluations. Many of the interviewees expressed the need for more training in the “how to” of protection relevant to their particular expertise.

Meaningful presence also requires that communities at risk “know that you are there to help them,” as one NGO official aptly put it. A number of interviewees questioned the value of international presence when the civilian and displaced population, in particular in rural areas, knew little about the UN and what it could do for them. In their view, UN agencies needed to do more to establish relations with communities outside the capital, particularly in rural areas. Further, it was pointed out that establishing a rapport with local communities and overcoming their “suspicion of foreigners” would require considerable investment of time in a given area.

Peacekeeping Missions. In one country, particular criticism was levelled at the UN peacekeeping mission for failing to project a meaningful presence. Given the significant numbers of troops and ceasefire observers on the ground (at least in comparison to humanitarian staff), a number of agency and NGO staff expressed disappointment at their limited impact in terms of providing any meaningful protective or preventive presence.

A significant factor was the mission’s mandate. The Security Council had provided the mission with a mandate restricted to providing protection in those areas where its troops are deployed, where it is within the mission’s capabilities to provide protection, and where the civilians concerned are under “imminent threat”. It was a mandate, in the words of one interviewee, dependent on a “lot of ifs”. As a result, it was not seen as an option open to this mission to deploy troops to places where there were threats to civilians or to act as a deterrent to prevent a situation from deteriorating. As one military staff member noted, “preventive deployment can work but the Security Council must give us a mandate to do it.”

It was apparent, however, that there was more to the situation than a question of mandate. In the words of one military mission member,

all troops are sent on the understanding that they are doing guard duty. They are not combat troops... We don’t deploy troops to areas where there is a problem. That’s interventionist and troop contributors would not accept it.

And it is not just the troop contributors who are wary of preventive deployments. One senior official within the mission observed:

We asked DPKO [the Department of Peacekeeping Operations] in New York if we could use our civilian [human rights and humanitarian] presence as an excuse to

deploy a contingent as a deterrent but New York was very concerned that if it all went wrong, you've got a problem of getting troops out.

However, it was further noted that if the mission did not deploy a preventive presence and the situation exploded, the mission "would be blamed for not doing anything." Some mission members expressed the view that DPKO should delegate more decision-making responsibility in protection matters to those in-country who were considered in a better position to judge the realities on the ground.

What then of those troops and ceasefire monitors who are already deployed in areas where there are problems or where problems can subsequently arise? The survey team met with a group of ceasefire monitors in one country and was informed that providing a preventive presence—visiting a given location where problems were reported or anticipated—was not something they would consider because as monitors they were unarmed.⁹⁰ Some interviewees noted, however, that a lot depends on personalities; there are observers prepared to take a more flexible approach to their work, including seeking to provide a preventive presence.

A number of interviewees also remarked that the unwillingness of some ceasefire observers to take a proactive role towards protection might stem from the unpopularity of the mission among segments of the local population. While some explained this as a lack of awareness on the part of the population about the mission's role, one senior official remarked quite openly that it was not a question of educating the population about the mission's mandate because "they know what it is and they don't think it's enough". In other words, some of the hostility and resentment toward the mission stemmed from its passivity toward the protection of civilians.

The fact that a significant proportion of ceasefire observers did not speak the national language and had not been provided interpreters or a sufficient number of vehicles was a major problem. Similarly problematic were allegations of sexual abuse and exploitation against mission staff, which had prompted the mission's SRSG to issue a memorandum to all military and civilian staff recalling that sexual abuse and exploitation are prohibited. A number of interviewees raised the role of the mission in providing protection to civilians who came to the mission's offices in search of refuge. The problem here was what one official called the "one human approach". If you let in one person, several more would likely follow and there simply was no capacity to deal with large numbers of civilians seeking protection, not least because in some areas the only mission staff present were unarmed ceasefire observers.

There was also discussion about the utility of "multi-specialty units" or a rapid reaction force to respond to situations in which civilians were under imminent threat but where

there was no or only limited peacekeeping presence. Again, interviewees drew attention to the limitations of the mandate and the expectations of troop contributing states. It was noted too that a rapid response aimed at protecting civilians would need a sufficient number of well-disciplined troops, preferably from a single contributing state.

It is a tragic irony—and food for thought for the future—that a matter of months after the survey team’s mission to one country where the limited mandate of the mission was emphasized continually, the Security Council had to respond to an escalation in fighting and the perpetration of atrocities by authorizing the deployment of a multinational force:

to contribute to the stabilisation of the security conditions and the improvement of the humanitarian situation..., to ensure the protection of...internally displaced persons...and, if the situation requires it, to contribute to the safety of the civilian population, United Nations personnel and the humanitarian presence.⁹¹

This was precisely the sort of mandate hoped for by many of the people interviewed by the team several months before the situation worsened in the summer of 2003.

The role of UN peace operations *vis-à-vis* the protection of civilians has been the subject of discussion for some time now. Of particular note, the report of the Panel on UN Peace Operations observed that:

peacekeepers—troops or police—who witness violence against civilians should be presumed to be authorised to stop it, within their means, in support of basic United Nations principles and ... ‘consistent with the perception and the expectation of protection created by [an operation’s] very presence’.⁹²

However, the panel also expressed its concern about the “achievability of a blanket mandate in this area.” Noting that there are hundreds of thousands of civilians in current UN mission areas who are exposed to potential risk of violence, UN forces currently deployed “could not protect more than a small fraction of them even if directed to do so.” The problem of “credibility” arose as well:

...promising to extend such protection establishes a high threshold of expectation. The potentially large mismatch between the desired objective and resources available to meet it raises the prospect of continuing disappointment with [UN] follow-through in this area. If an operation is given a mandate to protect civilians, therefore, it must also be given the specific resources needed to carry out that mandate.⁹³

The responsibility for this obviously rests with the troop contributing states. In the Millennium Declaration, adopted by the General Assembly in September 2000, UN member states resolved “to make the [UN] more effective in maintaining peace and security by giving it the resources and tools it needs for conflict prevention, peaceful resolution of disputes, peacekeeping, post conflict peace-building and reconstruction.” States further resolved “to expand and strengthen the protection of civilians in complex emergencies, in conformity with international humanitarian law.”⁹⁴

Donors. Just as donors were considered to play an important role in advocating for the rights of the displaced, a number of interviewees also drew attention to the contribution donors could make in terms of presence.

Getting donor representatives out of the capital and into the field was a course of action pursued by country teams in a number of the places and was considered important on two counts. First, it raises awareness among donors of the problems on the ground. Second, the presence of donors may contribute to the deterrence of abuses by making it clear to governments and other actors that they are concerned about violations. One NGO staff member believed that donors should visit the field more and justify such visits by asserting the need for closer monitoring of projects that they fund.

Protecting Staff. A critical factor in providing an international presence is ensuring the security and safety of field staff. They are as much at risk in some countries as the displaced and the civilian population. Indeed, an NGO official questioned the effectiveness of international presence in one country in the absence of any response to the murders of two senior UN officials and three ICRC delegates:

I am worried because the UN [did not say] a word when UN staff members [were] killed. This set an incredible precedent because those who killed them realize there are no consequences. How can we talk about protection in this situation when UN [staff] are killed? We promote impunity by not reacting.

Other interviewees also expressed deep concern about what they described as a wholly inadequate response to the killings by the UN system. They felt that the failure to investigate or even strongly denounce these murders served to make expatriate staff think twice about venturing out of the capital. Although time had passed since the murders, they continued to trouble people. Humanitarian workers in this country expressed real fear for their own safety—and needless to say, have little confidence that if anything happened to them effective action would be taken by the UN. Fear of personal safety—not an easy subject for people to discuss—was raised in a number of countries by humanitarian personnel.

In one country, an OCHA staff member consistently and vigorously raised with the government the cases of individual humanitarian aid workers taken hostage and reminded the humanitarian community of their need to keep solidarity with these workers by frequently bringing up their names in meetings. In fact, the issue of missing persons was raised in every single meeting held with the government as the first order of business. This seems to have had an important effect on morale. The OCHA office kept large photographs of hostages on the wall. Thankfully, they have since been released.

Although, as one UN staff member observed, there is need to accept a certain element of risk working in the field, those risks can be minimized by following security procedures. As the supplementary guidance asserts:

..in view of the perilous and difficult environment in which they have to operate, the security and well-being of workers providing assistance and protection in situations of internal displacement are often at risk. Plans for responding to the needs of internally displaced persons should, therefore, include adequate provisions to ensure personal and operational security.

And indeed they should, though it was apparent from the field visits that security measures were sometimes viewed as a mixed blessing. According to some interviewees, determinations by UN security officers of acceptable conditions for humanitarian work were sometimes at odds with the perception of humanitarian staff. Security directives were generally viewed as too restrictive or too lax by humanitarian staff. Some suggested that the designation of entire areas as security phase one, two or three should be more localized.⁹⁵ Often there were pockets or specific communities that were accessible but which fell within a geographical area deemed off-limits to UN agencies and their partners.

A particular dilemma arose in some countries from the need for agency staff to work with armed escorts. In two cases the guards provided by the government were forces that were parties to the conflict, which raised serious concerns about the neutrality and impartiality of the UN. Indeed, it was said that the displaced and civilian population as a result would be less inclined to turn to the UN for protection or to report abuses.

The safety and security of humanitarian staff came to the forefront in August 1999 following the tragic and appalling bombing of the UN headquarters in Iraq. The resulting report of the Independent Panel on the Safety and Security of UN personnel in Iraq found the UN's current security management system to be dysfunctional, providing little guarantee of security to UN staff in Iraq or other high-risk environments and in need of reform.⁹⁶

Preparedness. Effective early warning capacity needs to be linked to timely and decisive response mechanisms at the national and international level. According to the protection policy paper, the pre-positioning of staff, transport, shelter, material and food and medical supplies and the development of rapid implementation plans should be ensured in impending situations of internal displacement.

However, in only one of the countries visited was the country team developing an early-warning and rapid response capacity, inclusive of meeting urgent needs for assistance. In the majority of countries visited, the survey team did not get a sense that preparedness was a priority. While all country teams include agencies and individuals with a high degree of “field-connectedness” (awareness of when and where violations are occurring, against whom and by whom), it does not often translate into strategic planning and problem-solving.

At headquarters, the policy paper notes that periodic review by the IASC Working Group of situations identified as possibly leading to mass displacement could make an important contribution to contingency planning. This is sound guidance, but a cursory review of the summary records of the Working Group over the last two years suggests that this is not taking place with any frequency.

Strengthening Local and National Protection Capacity

Helping to strengthen national capacity to deal with situations of mass displacement is especially effective where the state is willing but not able to discharge its protection responsibilities. The assistance may take the form of technical cooperation as well as programs for good governance.

In a number of the countries visited, technical cooperation and rule of law and good governance programs were ongoing and conducted under the auspices of OHCHR, UNDP and UNHCR. Such programs aimed at reconstructing or building the capacity of the police, the judiciary and civil society and human rights institutions by rehabilitating infrastructure, giving training in international human rights standards, and providing essential equipment. In a number of countries, UN agencies supported legal assistance programs and counselling centers, which in turn provided legal advice to and supported legal actions by displaced persons and the population in general.

National Human Rights Institutions. A particularly important form of international support is that provided to national human rights institutions (in particular, national human rights commissions and ombudsmen), which in a number of countries received capacity-building support and training from the UN. Although the independence of these nation-

al institutions from their governments varied from country to country, in three of the countries visited it was clear that they played a critical role in the protection of the displaced – providing legal advice and pursuing complaints against the authorities on behalf of displaced persons.⁹⁷

It was interesting to note that in one of the countries, the national human rights commission was the only independent body, with the exception of the ICRC, present in the conflict areas and the only organization in the country attempting to investigate human rights violations. In another country, staff of the national human rights institution strongly believed that UN support for their work provided them with security-through-association. UN agencies, they noted, could also provide valuable assistance by accompanying them in areas where they cannot travel alone for security reasons.

National and Local Authorities. Beyond providing support to national human rights institutions, efforts were also underway in several countries to strengthen local and national capacity to provide direct protection to displaced persons. In one country, OCHA was managing a UNDP-funded project which provided logistical and financial support to government staff to enable them to deploy people to act as protection monitors in displaced persons camps. This was part of a larger project which also included protection training for the national and local authorities.

Elsewhere, UNHCR was involved in efforts to assist the local authorities in issuing identity documents to the displaced and communities at risk of displacement – an important source of protection, both in reducing the risks of harassment as well as ensuring access to basic services.

Training of national and local authorities was also underway in another of the countries visited, where a joint training team, composed of representatives of OCHA, the military, police, the office of the attorney-general and the government ministry responsible for the displaced, was conducting training in the Guiding Principles for officials in the provinces. The training sessions involved analysis of the situation in the provinces followed by the identification of steps that could be taken and the persons or organizations that could carry these forward. The results of the sessions were then incorporated into a protection plan specific to the particular province. After adoption of the plan by the participants, it was signed by the provincial governor, thereby providing a mechanism of accountability. Implementation of the plan would then be monitored by OCHA-led teams at the provincial level and by a joint technical group composed of UN agencies, at the national level.

Although progress in implementation has been patchy, in the provinces in which workshops have been held, humanitarian workers reported that open and frank discussions

on protection issues became possible with members of the military, police and provincial governments. However, concern was expressed over the lack of full participation of international staff in some of the workshops and the lack of full support from participating government institutions. Finally, structural weaknesses within the justice system at the provincial and municipal level were found to hamper addressing protection issues. What was needed was greater involvement of the HC/RC to impress upon the different actors the importance of the process combined with greater capacity building efforts.

Domestic Legal and Policy Frameworks. Supporting local and national authorities in developing legal and policy frameworks is another critical element of capacity building. In one country, significant efforts had been expended to assist the government in developing a legal and policy framework for the protection of the displaced. The Government, in cooperation with the UN, had developed minimum standards for the resettlement of internally displaced persons, based on the Guiding Principles, and in October 2000 these standards were formally adopted in a decree on resettlement of the displaced.

Prior to formal adoption, the government and UN began to draft standard operating procedures to spell out in detail the resettlement norms, and these were adopted in December 2002. This prompted some interviewees to comment that it is far more effective for the UN to base its advocacy efforts on national legal provisions than on more “distant” international human rights and humanitarian law standards. As one person remarked, “you can go to the government and say ‘this is your law; implement it’”. The development of national legal and policy frameworks to promote the protection of internally displaced people based on the Guiding Principles is an important trend actively promoted by the Representative of the Secretary-General on Internally Displaced Persons.

People in Government to Work With. Even within governments with poor human rights records, there are people willing to pursue protection activities with the UN and other organizations. As one interviewee observed, “the government isn’t a monolith. There are people you can work with.” Another pointed out that rather than lambasting the government from outside for its actions or inaction, it was often more effective to go to one’s partners *within* the government and have them raise the issues, that is “government dealing with government”.

Training

The UN’s humanitarian, development and human rights offices consider training on the protection, assistance and reintegration of internally displaced persons “essential for international staff, national authorities and non-state actors, local organisations and all other relevant actors.” Indeed, the IASC Working Group in 2001 developed training mod-

ules on displacement, based on the Guiding Principles and aimed at field staff of UN agencies and NGOs as well as local and national authorities.

The modules became the basis for the training and capacity building programs of the Internal Displacement Unit, which provided in-country training on the Guiding Principles to a broad number of UN and NGO staff, members of civil society and national and local authorities. A complementary training program on the Guiding Principles is also conducted by the Norwegian Refugee Council.

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However, this important training does not extend to UN or regional peacekeeping forces, police, ceasefire monitoring mission staff, or to field-based staff of regional organizations. This clearly indicates that the recommendation made by the IASC protection policy paper to bring training material to the attention of UN peacekeepers and civilian police, "who increasingly are undertaking activities of direct relevance to internally displaced persons," has yet to be consistently applied.

There is also a need to provide training that encompasses more practical, day-to-day steps that field staff can take in the event they witness abuses or receive information regarding violations. As earlier noted, the IASC policy paper provides that when violations occur, field staff should ensure that the information is communicated to officials and institutions in a position to act upon it. However, it was apparent from our field visits that humanitarian staff, both UN and non-UN, were not always aware of either their responsibility in this regard or how and to whom to report information. Nor was it always clear to field staff what sort of actions or events should be reported.

The RC/HC training program does not yet contain a course on the RC/HC's role with regard to IDPs. This notwithstanding that the policy paper provides that "it is envisaged that a number of critical principles on the HC/RC's role *vis-à-vis* internally displaced persons will be distilled from the modules and fed into the RC/HC training programme at the UN Staff College".

OPERATIONAL RESPONSE AND REMEDIAL ACTION

Vulnerability Assessments

The need to include protection within needs assessments is now often cited but does not often occur in practice.⁹⁸ As one commentator observed, current approaches to needs assessments tend to construe human suffering in humanitarian terms—a lack of food, shelter, and water. While lack of access to the basic requirements for survival is often a key determinant of people’s vulnerability, the other critical aspect of basic human welfare is human security and the need for protection, including freedom from violence or fear, and freedom from coercion.

While the need for protection cannot be easily quantified, it is an essential component of assessment in conflict-related crises, in order to establish both the threats to people’s basic security and the context within which assistance efforts must be conducted.⁹⁹

These comments come from a study prepared for the “Montreux IV” meeting of donors, held in February 2003. The meeting subsequently called for the inclusion of protection and security issues in needs assessments.¹⁰⁰

In the team’s field visits, it was apparent that the issue had registered with some country teams. In one country, a series of nationwide “rapid assessments of critical needs” over the past few years included a focus on protection issues and used the Guiding Principles as a frame of reference. The reports contained a breakdown by province of the protection problems identified, as well as a matrix listing the activities which needed to be undertaken in response, the size of the “caseload” and its location, the particular individuals and agencies responsible for undertaking the required activities, and estimated costs. The only drawback was that the protection aspect of the assessment was undertaken by OCHA staff rather than the human rights officers in the UN peacekeeping mission, who had the needed background and training. These officers, however, were barred from participating for “mandate-related reasons.”

In another of the countries visited, UNHCR led a comprehensive assessment of conflict-related needs in which protection was a key element. Indeed, protection was considered “the cornerstone” of relief, recovery and rehabilitation activities in post-conflict transitions, with the resulting report paying “particular attention and priority ... to those most vulnerable (primarily IDPs), returnees and refugees.” The report provided an overview of the origins and movements of the displaced and their intentions regarding resettlement or return, stressed the need to address property and land rights issues, and emphasized the

importance of maintaining a focus on protection from sexual and gender-based violence, child labor, and physical security in the case of minority displaced populations. Finally, the report provided a list of actions required in the immediate, medium-term and long-term to address the problems identified.

Elsewhere, however, it was apparent that while there was some acknowledgement of the protection and security problems facing the displaced, this was done more in passing than with the depth of analysis devoted to other sectors of the humanitarian response. Moreover, regular “humanitarian situation reports” were often limited to the protection problems affecting children and to sexual and gender-based violence, whereas in other cases, there was insufficient attention paid to these issues.

It would therefore be valuable to dispatch protection assessment missions to different countries. In one country, a joint government/UN/NGO protection group based in the capital undertook regular missions to different provinces to assess the protection needs of IDPs. Using the Guiding Principles as its framework, the assessment missions took a broad approach to protection, examining access to food, health, shelter, water and sanitation as well as personal physical security. Recommendations were then drawn up which identified who should be responsible for implementation and stipulated a time period within which action was to be taken. Specific actors, generally from among the inter-agency group, were also designated to follow-up on implementation. These needs assessment missions were also used to disseminate the Guiding Principles among local authorities and the displaced population. In addition, mission reports were shared with a higher-level forum on the protection of the displaced composed of senior government (including at ministerial level), military and police officials, heads of UN agencies and NGO representatives.

The Consolidated Appeals Process

In formulating their appeals for funds through the Consolidated Appeals Process (CAP), country teams are expected to ensure that the protection needs of internally displaced persons are addressed. Moreover, the IASC Working Group is supposed to ensure that the needs of the internally displaced are systematically taken into account in the resource mobilization process. Further, it has been recommended that the activities of agencies having a specific protection mandate, such as UNHCR, OHCHR and UNICEF, should be highlighted in the CAP.

Incorporating Protection into the CAP. The extent to which the CAP reflects the needs of the displaced, including for protection, has been the subject of scrutiny in the past. In 2000, the Representative of the Secretary-General on Internally Displaced Persons and UNICEF commissioned a study on the extent to which the CAPs for that year supported

internally displaced persons.¹⁰¹ The study found that most of the CAPs acknowledged the special vulnerabilities and needs of the internally displaced and that many individual projects took these needs into account as well. However, there remained considerable scope in the appeal documents to strengthen the analysis and response to internal displacement, particularly with regard to protection.

Although a detailed analysis of the CAP process is beyond the scope of the present report, it should be noted that subsequent to the Representative's study, efforts have been ongoing at headquarters to promote a more human rights and protection-oriented approach in the CAP. Indeed, the August 2002 *Technical Guidelines for the Consolidated Appeals Process* notes that "greater efforts should be made to integrate human rights and humanitarian principles into the CAP," in accordance with the Secretary-General's reform program to mainstream human rights throughout the UN system.¹⁰² More precisely, it notes that the CAP should have a special section which describes the key humanitarian principles and human rights issues of primary concern to the humanitarian program; outlines their implications for humanitarian action; explains how the country team will address these issues; and demonstrates how strategies and projects of the different sectors contribute to addressing these concerns.

In addition, the CAP training program includes a module on human rights and humanitarian principles to assist participants to recognize how human rights underpin all humanitarian response. The module shows human rights as a starting point for developing humanitarian action plans; identifies relevant international and national legal sources for human rights; and shows how to identify specific human rights issues in the context of a given country. It also shows the importance of humanitarian principles and codes of conduct and explains the use of the CAP as a mechanism for putting humanitarian principles into practice.¹⁰³

The survey team was encouraged to see that of the nine countries visited, the six included in the CAP process incorporated sections on humanitarian principles and human rights within their respective CAP documents. However, the specific projects intended to bring about the realization of these principles are given far less prominence in the CAP response plans. In all but one of the six countries the human rights or protection sector appeared towards the end of the document, generally after food, health, education, mine action, water and sanitation, shelter and non-food items. While this may seem inconsequential, it does not appear to fulfil the recommendation of the IASC Working Group to raise the profile of protection within the CAP and to highlight the activities of agencies having a specific protection mandate.

Clearly, there is a need to further enhance the profile of protection within the CAP and to engage the donor community to this end. Although overall funding for protection activi-

ties in the CAP increased significantly between 2001 and 2002, from over US\$22 million to over US\$66 million, it still remains a consistently under-resourced sector of the CAP.¹⁰⁴ As noted in the 2003 CAP for one of the countries visited:

For many agencies, insufficient funding has limited program implementation or resulted in their suspension ... OHCHR reports that not only are monitoring activities and the provision of legal assistance restricted, but training and human rights dissemination programmes, targeting key government institutions, have been limited and, where training has been undertaken, follow-up activities have suffered.

Other CAP documents revealed that in two of the countries visited, protection received only 13% and 16% of required funds respectively, while in another country visited, in which protection concerns were acute, the protection sector received no funding at all from the CAP.

How does one account for this shortfall? Donors interviewed did not seem to think that funding for the protection sector was a problem. It would appear therefore that their perception of what the agencies need to do for protection differs from that of the agencies. At the same time, a number of donors expressed the desire for agencies to do more in terms of protection. In one case, a major donor agency expressed disappointment and even anger at the failure of a UN agency to take on more responsibility for protection.

Just as it is difficult to quantify the "need" for protection, it is also problematic to quantify the result or "success" of protection activities, or to measure protection activities in terms of "bang for the buck". There is a case to be made for more work to be done on the design of "protection indicators". In the meantime, it can only be hoped that the request of donors for needs assessments to take protection into account be matched by an increased emphasis from donors on the financing of activities intended to respond to those needs.

Integrating Protection into Development Instruments

Protection concepts and practices must also be integrated into development instruments such as Common Country Assessments (CCAs), UN Development Assistance Frameworks (UNDAFs) and Poverty Reduction Strategy Papers (PRSPs).¹⁰⁵

Again, the survey team was encouraged by the extent to which country teams sought to integrate and mainstream human rights into such instruments. A review of 18 CCAs and UNDAFs revealed that country teams recognized the importance of basing their analyses on human rights standards, promoting participation and capacity-building, and looking at the causes of poverty from a human rights perspective. Improving governance, increasing

accountability and standing up for the marginalized and most vulnerable were also prominent in the documents reviewed. As one evaluator noted, the documents “resonate with human rights principles, language, standards and practices.”¹⁰⁶

As for the countries visited for the protection survey, their respective CCAs and UNDAFs also take a rights-based approach. However, it was discouraging that emphasis was often not placed on the situation of the displaced, who are frequently the most marginalized and most vulnerable.

In one country, neither the CCA nor the UNDAF made any reference to the internally displaced or their specific needs, although the CCA did focus on the rights of women and children (who make up the majority of the displaced), persons with disabilities, and caste and ethnicity (a significant factor in displacement in that IDPs from certain castes and ethnic groups are at particular risk of discrimination and exploitation). The CCA was drafted mid-way through a six year-long conflict; yet the conflict is referred to only in passing, and there is nothing beyond a brief mention of the particular problems faced by “innocent residents”, a significant number of whom became displaced. Nor is there any mention of how the government and the UN intend to respond to their situation. Although the UNDAF covers the post-conflict period, there is no reference to how the situation of those who remain displaced and live in appalling conditions, will be addressed within the framework of the UN and the government’s development plans.

The UN Staff College, which provides on-site training to country teams on the development of CCAs and UNDAFs, informed the survey team that “if the issue of [internally displaced persons] emerges as a critical one, this will be reflected in the CCA and UNDAF.” It is essential that this happens and that appropriate steps be taken to monitor this.

Similarly, country teams should ensure that the problems and needs of internally displaced persons are considered within the context of national poverty reduction strategies and in the development of Poverty Reduction Strategy Papers. PRSPs are designed to provide a framework for lending operations by the World Bank and the International Monetary Fund and according to the UN Development Group are increasingly viewed by donors “as a needed instrument to plan and coordinate their policies of assistance.”¹⁰⁷ As such, it is important that they give due consideration to addressing the needs of displaced populations.

Promoting Protection in the Design of Humanitarian Programs

The UN’s protection policy paper acknowledges the role that humanitarian and development agencies must play with regard to protection. In particular it points out that:

The physical security***of displaced persons******was not always******targeted within******broader humanitari-******an programs on food,******water and shelter.***

- humanitarian agencies have responsibilities to ensure that protection features are integrated in their programs and operations;
- while certain agencies have devised specific guidelines (e.g., prevention of sexual exploitation in camp situations, protection against child recruitment through schooling), agencies overall should review their assistance programs to avoid potential negative effects on protection and strengthen features that could positively affect protection;
- agencies providing assistance should consult with protection oriented agencies operating in the country to determine how their programs could be strengthened to afford protection of basic rights;
- displaced persons are particularly vulnerable to involuntary return or resettlement and to a lack of safety in areas of return or resettlement. The restitution of land and property rights is an additional problem. Humanitarian and development agencies need to work together to ensure that their programs are designed to tackle these challenges.

Perils of Mainstreaming Protection. There is much to support promoting protection in the design of assistance and of return and resettlement programs and in pursuing “human rights mainstreaming” or a “rights-based approach” in programming. Several interviewees were quick to point out that as protection is a cross-cutting issue, it should be mainstreamed into the country team’s programs rather than dealt with as a specific sector of humanitarian response, like food and nutrition, health and water.

However, in a number of the countries visited, the meaning and modalities of rights-based programming are not fully understood by country teams.¹⁰⁸ Some organizations, for example, argued that they have a rights-based approach because they provide food or medical care. However, realizing the right to

food is not simply a matter of distributing food. It is also a question of where, when, how and to whom to distribute the food.

Similarly, realizing an individual's right to an adequate standard of living is not just about providing shelter and water but must also be concerned with ensuring that the individual can participate in decisions on where the water points and latrines are to be located so as to ensure equitable distribution of services and to prevent violations (such as the commonly used example of women being sexually assaulted when forced to go long distances for water).

It was apparent from the field visits that the physical security of displaced persons was not always targeted within broader humanitarian programs. For example, the meetings of different coordination bodies on food, water and shelter tended not to apply a protection perspective to their work despite the connections between the timing of food distributions and attacks on camps; or physical and sexual assaults on displaced women walking to poorly located latrines or water points. As one senior UN official observed, "it is a question of how things are prioritised and so far there's been no prioritisation of internally displaced persons and protection."

Another interviewee remarked that although the CAP for the country concerned was structured around a rights-based approach, staff in the field were not thinking in terms of rights. In cases where protection issues were raised in general coordination meetings, this was *ad hoc* and the discussions were often brief.

Even in coordination groups with a link to human rights concerns, protection problems were not always given due weight.¹⁰⁹ In one country, UN and NGO staff in a particular region had created, on their own initiative and to the chagrin of some agencies in the capital, a local inter-agency human rights working group in which to discuss and resolve protection problems because of the lack of guidance and advice from the capital. Although an inter-agency "human rights and gender working group" existed in the capital, it dealt almost exclusively with gender issues rather than with the more general human rights and protection concerns that field staff confronted on a daily basis.

In another country, the chair of the inter-agency "thematic group on human rights" noted that although IDPs are a standing item on the group's agenda, "it does not mean that we're dealing with protection". In his opinion it would be preferable to establish a separate or sub-group on protection of the displaced, involving all agencies and donors, not least because the sorts of protection concerns with which it would be concerned often required a "quick response" which was more readily achievable through a focused group.

Lack of access to basic services, even the total denial of basic services, is not always viewed or addressed as a protection problem *per se*. Responses generally concentrate

on how to get material assistance to those in need without attention to the causes of the problem. This means that advocacy on rights falls by the wayside.

A Protection Focal Point. A recurring theme in the interviews was the need to formalize the country team's response to protection through the designation of a focal point on protection from within the UN country team. This person or persons would be tasked with bringing relevant UN and non-UN actors together to analyze protection problems and to develop and implement a protection strategy to respond to those problems.

There were variations on this approach in a majority of the countries visited. In countries in which UNHCR was present and had a mandate to work with IDPs, the expectation was that UNHCR—given its comparative advantage and expertise in protection—would play the main role. This was the case in three of the countries visited, with UNHCR clearly taking a lead on the protection issue. In those countries where UNHCR lacked such a mandate, many interviewees felt it should nonetheless be assigned to UNHCR given its expertise in protection.

The preference for UNHCR to play a greater protection role came as no surprise in view of its experience in protecting refugee and displaced populations. What did come as some surprise was that none of the interviewees considered the Office for the High Commissioner of Human Rights a viable option, despite its mandate for the protection of human rights.

In the absence of UNHCR, interviewees did not express a preference for any particular UN agency to undertake protection planning. What was expressed was a strong preference for a UN operational agency to assume a lead protection role because that would provide a protective umbrella for the activities of non-UN actors. According to one NGO: "we are not so worried about who [in the UN country team takes a lead on protection], just so long as there is someone we can work with, where we can air our problems and focus on issues together". Another stated that the "lead" on protection should be taken by an agency with "money, capacity and headquarters support [although ultimately] we just want to see someone doing it. We don't care who".

This statement explains in part why there is limited interest in seeing OHCHR take the lead. The Office is simply not seen as having the operational capacity or headquarters' interest or resources to take on this role. This point of view was also borne out in interviews with OHCHR field staff who, it should be said, exhibited tremendous frustration at this state of affairs. In two of the countries visited, OHCHR staff reported that while they were keen to assume a greater role in protection, including monitoring and reporting on the conditions of the displaced, they lacked the resources to do so and were certain that

headquarters would not support an expansion of their activities. According to one of these staff members, numerous emails requesting additional resources for protection activities had simply gone unanswered by headquarters. Another said that he had had to bypass Geneva and recruit additional staff resources with the financial support of the UNDP country office.

Whether or not OHCHR should or could play a greater role in regard to protection is open to discussion; suffice to say that it seems the most naturally placed, mandate wise, to do so. While the days of extensive OHCHR field missions akin to those deployed in the past in Rwanda and Burundi and presently in Colombia and Cambodia are more the exception than the rule, there may still be possibilities for the future in the guise of an inter-agency “Plan of Action” for strengthening human rights related UN action at the country level.¹¹⁰ The Plan envisages placing OHCHR human rights advisers as members of UN country teams where they will be tasked with establishing a group to serve as a “platform for discussing human rights issues”. This might be interpreted to include the establishment of a protection working group or similar forum on IDPs.

In five of the countries visited and where UNHCR was not playing a lead role in protection, it was OCHA that initiated action on protection, albeit to quite varying degrees. And not always because it had been formally designated as such but because, in the words of one OCHA official, “no one else is doing it and somebody should be”. OCHA’s initiatives have not been without controversy and have not been wholeheartedly welcomed by other agencies, or for that matter by OCHA senior management.

OCHA staff with whom the survey team met expressed frustration over the lack of support from headquarters, which they viewed at times as bordering on opposition, for their efforts to take the lead in developing inter-agency protection strategies on behalf of the displaced. In two cases, high-level UN missions to the countries had drawn attention to the urgent and critical need for a greater focus on protection. In the absence of realistic alternatives, the task was assumed by OCHA—in one country UNHCR and OHCHR were present and in the other UNHCR and DPKO (with a human rights component) were present, but in both countries were limited by mandate, presence or capacity. In one of the two countries, OCHA’s assumption of the role was greeted with consternation by UN agencies and NGOs while OCHA headquarters reacted with what one interviewee described as “absolute horror” at OCHA’s becoming “operational”.

Whether it was becoming operational or not is a matter of interpretation. In any event, two points are instructive. First, in both cases, the strategies and mechanisms developed were aimed at coordinating and facilitating the work of others, by bringing relevant actors around the table to discuss protection issues, including national and local authorities.

Second, even if OCHA's actions could be construed as becoming operational, what exactly is the problem with that when, as with the two cases in question, none of the operational agencies were in a position, or were prepared, to assume the necessary role? Surely what is important is ensuring protection for the internally displaced rather than being hamstrung by strict and inflexible interpretations of mandates.

OCHA's role in these two countries did not escape criticism from the donor community either. A meeting of donors in May 2003 "cautioned OCHA from stepping in to fill gaps", requesting instead that it "work with its humanitarian partners to ensure that gaps were filled by those with the necessary resources and capacities." It was apparent to the survey team, however, that OCHA had sought to bridge the protection gap precisely because of the lack of resources, capacity and will on the part of its humanitarian partners, which stemmed to a large extent from a lack of donor support for protection activities, in particular for those of UNHCR.¹¹¹

These problems notwithstanding, the experience of OCHA seems to indicate that while competence in protection is an obvious advantage it may actually have to be a secondary consideration to ensuring that a member of the country team acts as a focal point on protection. At the same time, as various interviewees noted—including OCHA staff—an OCHA field advisor will not possess the same competence in protection that one would expect to find in a UNHCR protection officer. As one OCHA official put it, "our field staff are not hired to do protection".

Furthermore, for OCHA staff, undertaking protection-related activities comes in addition to their routine coordination responsibilities and some are better than others at balancing these different responsibilities. By the same token, it was apparent that in those countries where UNHCR had taken the "lead" on protection, the nature and extent of that lead varied quite a bit, with protection constituting the organization's *raison d'être* in one country to its constituting little more than protection on paper in another.

Either way, the experience of OCHA does at least confirm that "allocating coordination responsibilities can prove contentious even at the sectoral level, particularly when no agency—whether the UN or otherwise—has clear technical expertise or mandated responsibility for a sector".¹¹² Moreover, what happens if donors and agencies resist the efforts of HCs/RCs to allocate responsibilities?¹¹³

And what steps should be taken when the designated agency fails to fulfill its protection responsibilities? In one of the countries visited, one agency's perceived reluctance to fulfill its publicly stated role in the CAP "to facilitate a coordinated approach to protection issues" was a constant theme in interviews. Some suggested that the agency concerned

“should put up or shut up and let someone else get on with it”. To achieve results, there should be more work at headquarters to build in greater predictability around the allocation of sectoral responsibilities in order to relieve HCs/RCs from having to “reinvent the wheel at every turn”¹¹⁴ and to avoid what one NGO referred to as agencies “squabbling over who does what”.

Protection Working Groups. The principal task of the protection focal point should be to establish working groups on protection, both in the capital and at the local level. The purpose of the working group would be to bring together protection-oriented actors to analyze protection problems and develop a coordinated response to preventing human rights violations and further displacement.

Some questioned this approach, especially those who favored “mainstreaming” protection. Others were concerned that it would “only annoy the authorities” who might then deny access to displaced persons or other groups under threat. Some argued that there are already too many sectoral and thematic bodies in different countries and that another dealing with protection, be it displaced persons-specific or civilians in general, would compound the bureaucracy and keep staff in meetings and away from the field.

On the basis of the field visits and interviews, however, it became clear that more formalized coordination on protection would have distinct advantages. Protection working groups can provide a forum where agencies providing assistance have the opportunity to consult with others operating in the country to determine how to strengthen the protection dimension of their programs and reinforce rather than duplicate one another.

A formalized approach also promotes the development of a clear and coherent strategy on protection which, as numerous interviewees took pains to point out, was often lacking. Indeed, as has been observed in relation to the broader humanitarian response:

A majority of interviewees from UN, donor and non-governmental circles emphasized the need for a more strategic and planned approach to protection.

Having a clear strategy and plan to guide the humanitarian response is pivotal to ensuring that the most critical humanitarian needs are met. Yet all too often humanitarian actors in general, and the UN in particular, are unable to articulate what they are trying to achieve, or how their particular actions relate to precise goals.¹¹⁵

This finding applies to protection as well. In the majority of the countries visited by the survey team, ongoing protection activities did not seem to form part of an overall protection strategy that would then be part of the broader humanitarian response. Although there was a general awareness among field staff that protection problems existed and that these should be addressed, this was not always complemented by any detailed analysis of the nature of those problems which, in turn, could provide a basis for a comprehensive plan allocating clear roles and responsibilities to both international and national actors in responding to and seeking to prevent protection problems. As one UN official observed, “we are just fixing things; there’s no overall strategic plan.” In fact, the survey team found a comprehensive and detailed protection strategy in only one of the countries visited.

Yet a majority of interviewees from UN, donor and non-governmental circles emphasized the need for a more strategic and planned approach to protection. NGOs and civil society groups were particularly in favor of a clear and defined position on the part of UN country teams. First, because they would know what to expect from the country team and its individual members. Second, because it would provide a list of responsibilities and tasks against which to hold members of the country team accountable. And third, because it would offer NGOs a clearer sense of the role they could play in cooperation with the UN country team.

Sectoral coordination on protection can provide an important means for pressing agencies to meet protection responsibilities and to clarify the precise nature of these responsibilities. By focusing on specific protection problems, members of the group are effectively compelled to find either direct or indirect solutions to these problems or else explain why they cannot, in which case alternatives can be sought—including recourse to headquarters for advice and support, the fielding of technical experts, etc.

It also provides a forum in which UN and non-UN actors can exchange views, explain the limits of their mandates and decrease potentially unrealistic expectations as to what they can achieve. In a number of countries visited there was an evident gap between what was expected of UN agencies by NGOs and civil society and what they could deliver. That said, it was also apparent that in some cases the limitations were self-imposed. What was required was creative thinking, a process which would be facilitated through discussion with others in a protection working group. Similarly, a protection working group can provide a forum in

which to ascertain the veracity of information. As one interviewee observed, if an alleged violation is true one can act on it, if it is a rumor devoid of substance, one can dispel it.

Another argument in favor of protection working groups is that they provide a forum in which agencies such as UNHCR and OHCHR, which may be present in a given country but not expressly mandated to undertake protection activities on behalf of the displaced, can at least provide knowledge, advice and training to those agencies and organizations that wish to undertake such work but lack the expertise. Likewise, in view of its acknowledged expertise and mandate with regard to the protection of civilians in armed conflict, ICRC, although outside the UN system, could provide informal guidance and training to the members of a UN-led protection group.

The members of one such group with whom the survey team met were particularly appreciative of ICRC's efforts to provide training in international humanitarian law. While the ICRC may not wish to participate directly in protection working groups in some countries, ICRC heads of delegation expressed strong interest in keeping informed of the protection-related activities of others and were willing to assist humanitarian and other organizations in increasing their understanding of international humanitarian law.

Still another important aspect of a UN-convened protection working group is that it provides an umbrella of international protection under which international and national NGOs and civil society groups have greater freedom of action than might otherwise be the case. NGO staff and members of civil society in all the countries visited emphasized that while they are keen to raise and to address protection problems encountered by their field staff they are often prevented from doing so on account of being more vulnerable than the UN to different forms of pressure from government authorities or non-state armed groups and, in the case of international NGOs, at greater risk of expulsion from a country. The opportunity to raise protection concerns, including directly with the authorities concerned but within the context of a working group chaired by the UN, was considered by many an important step towards addressing this dilemma. Many national NGOs and members of civil society also expressed the view that linkages with the UN were critical to their security.

The survey team participated in the meetings of protection working groups at the capital and local levels in three of the countries visited. During these meetings they were struck by the extent to which the presence of the UN in the meetings, particularly in the role of chair or joint-chair, appeared to empower civil society and NGO members of the group to raise protection concerns directly and candidly with members of the national or local authorities who were also present. The regular interaction and personal relationships which had developed between these different actors as a result of their being brought

together also aided the process. Several interviewees noted that a key outcome of these groups was the promotion of dialogue and confidence between government officials and the humanitarian community. As already noted, finding people within the government with whom one can work is an important way to achieve results.

This raises the question of the composition of a protection working group. Should government officials be included, or might this deter group members from reporting abuses or make them fear retaliation for doing so? Should it include only UN agencies, international NGOs and donors? Should it include national NGOs and civil society groups? Or might the latter increase the risk of informants being present, reporting on the group's activities and making others feel at risk and thereby silenced?

The answers are very much country-specific. For instance, the participation of government representatives is a key and indeed important feature of some groups, in one case facilitating the group's access to affected populations which might otherwise have been "off-limits". In other countries it clearly would not work given the level of government involvement in violations, although again, there are almost always "human rights sympathizers" within governments or other power structures.

The manner in which the group carries out its work is another critical issue. The country director of one international NGO commented that he would have to think carefully about participation in such a group lest his organization's involvement give rise to repercussions from the government. Similarly, others noted the importance of ensuring that certain groups and individuals, in particular victims and witnesses of abuses, do not become exposed due to the work of the group. In fact, the survey team was alarmed to learn that one working group was developing a monitoring and reporting system that planned to share extensive data about victims with government institutions that were directly implicated in human rights violations against IDPs. Fortunately, that aspect of the system was subsequently dropped.

Support to Community-Based Protection

Community structures can be an important source of protection in situations of displacement. The protection policy paper calls for the needs of the internally displaced to be addressed within a broader humanitarian strategy which takes into account the needs of all segments of the population, in particular those of the host community. It states that:

- displaced communities should be involved in decisions on the design of programs to address their needs, and on their return or resettlement. Activities that encourage the maintenance or restoration of communal links or promote the integration of the displaced into the surrounding community can contribute to their security.

- in emergency situations, high priority should be given to reuniting families, creating support structures for unaccompanied children, and enabling displaced persons to remain with or rejoin members of their clan, tribe or village.
- over the longer term, activities that strengthen civil society and facilitate conflict resolution and reconciliation among different cultural, ethnic and religious groups can contribute to the protection of the displaced. They can also lead to the creation of conditions for the eventual safe return and reintegration, or resettlement and integration of IDPs.

The survey team observed that humanitarian agencies are generally well-informed regarding the importance of addressing the needs of IDPs within a broader, community-wide response at the field level. In fact, in some cases agencies decided it was better not to act unless it was possible to engage in a community-based approach. In one of the countries visited, where a significant proportion of the displaced came from a traditionally marginalized minority, it was evident that assistance and protection efforts on their behalf would succeed only if they were part of a broader response package aimed at the community as a whole.

Involving the Displaced in Program Design. Unfortunately, in all countries visited, there was too little importance attached to involving the displaced in program decisions, in particular on protection. As one commentator observed:

one aspect of the [internal displacement] problem that has been too frequently overlooked is the ability of internally displaced people to adapt to the experience of displacement. This oversight robs the displaced of their voice and belittles the substantial contributions they make in shaping their own lives.¹¹⁶

Protection, it was pointed out to the survey team, often comes from the family and the community—something some humanitarian actors have failed to grasp, in no small part because

Displaced communities should be involved in decisions on the design of programs to address their needs.

they had not fully consulted with displaced communities or people at risk of displacement regarding what is important to them, how they perceive their situation and their problems, and how agencies and NGOs might assist them to help themselves. The displaced know how to organize and protect their communities, one interviewee said. They do not need advice and guidance from the UN. What they need at times are something as simple as torches and whistles, whereas at other times they need a protective umbrella under which to work through engagement with the UN.

In one of the countries visited, where UN agencies failed to provide any sort of protection to the displaced and others at risk, some communities developed their own protection strategies. One group of villagers reported to the survey team that because the threat of forced recruitment was causing young men to leave the village, the heads of household convened and made the decision that they would no longer accept forced recruitment of their young. This seemed to hold some sway since from that point on, rebel visits to the village were concerned with obtaining food rather than recruiting the young. Another community reported that in response to the continued refusal of the local authorities to allow them to return to their homes, they had organized a “sit-in” at the offices of the local authority, which resulted in their being allowed to return.

Engaging and Supporting Local Communities. Elsewhere, there was awareness among some country teams of the need to provide support to local communities for their own self-protection efforts. In two countries, OCHA and UNHCR were involved in significant efforts to support community-based protection mechanisms.

In one province of a country, the OCHA field advisor worked with displaced communities to establish a “vigilant nucleus” in displaced persons camps. Each nucleus consisted of six displaced persons from the community trained to monitor human rights violations. They reported daily on violations to a “Commission for the Follow-Up on Protection Issues”. The five members of the Commission included local government officials, the national police, the national Red Cross society and members of local civil society groups and NGOs. The Commission in turn reported regularly to a “Protection Sub-Group”, chaired by the provincial representative of the Ministry of Justice. At the time of the survey team’s visit, follow-up had already taken place on a number of individual cases, including rape and other violations of physical integrity.

The Commission and Sub-Group were also involved in conducting a sensitization campaign with the army and national police concerning underage recruitment and reported significant progress in decreasing the number of rapes committed by soldiers. Unfortunately, this was the only province where protection structures had advanced to this stage, and the team was informed that due to major UN agency restructuring in the country the future of UN support for the protection system was uncertain.

In another of the countries visited, UNHCR staff played a critical role in providing support to “communities of peace”, an admirable and courageous example of community-based protection. These communities declared civilian autonomy *vis-à-vis* the parties to the conflict and adhered to self-imposed restrictions on carrying weapons, passing information to armed actors, or supporting armed groups in other ways.

Particular appreciation was expressed by community leaders for the presence of UNHCR staff as well as the staff of the international NGO Peace Brigades International during periods of tension, such as when armed actors (including government forces) entered or approached the communities. UNHCR staff was also actively engaged in supporting indigenous and ethnic associations as well as associations of displaced persons advocating for the rights of their communities. This direct UN engagement “with the people” was seen as critical to IDP protection by these communities.

Self-Defense Units. Another form of community protection which existed in some of the countries visited was armed self-defense or civil defense units, some of whose members were drawn from the ranks of the displaced. Although these units were not supported by UN agencies, the reason for mentioning them at all is to emphasize the need for an assertive stance by UN agencies with regard to the protection and human rights concerns raised by the existence of these units.

That is not to say that there is necessarily something inherently wrong with this sort of community protection. It was apparent from the missions to countries where these units existed that they might well provide a modicum and possibly the only form of protection to displaced and other communities. But the reality often is that resort to such measures invites civilians, often children, to participate in the conflict, increasing the likelihood that they, their families and communities will become targets. Such units also serve to fuel pre-existing conflicts within and among families, clans and communities. In one particular case, government efforts to “encourage” (often through bribes and intimidation) the formation of armed civil defense units and informant networks basically engaged civilians in the conflict, dividing communities and seriously undermining protection principles and ongoing protection activities. These initiatives have invited attacks from other armed actors, thus greatly increasing the vulnerability of communities and their likelihood of being cut off from assistance as areas of fighting are often declared “no-go” areas either by the armed actors or by humanitarian agencies.

Of particular concern is the effect these campaigns have had on indigenous communities, whose members under law are exempt from military service. Indigenous leaders reported to the survey team that some of their young people have been enticed or threatened to join civil defense units or become informants. Given the extremely precarious situa-

tion of many indigenous groups (some of which have fewer than forty members still alive), this has potentially devastating consequences for their survival.

Protection Strategies for Women, Children and Vulnerable Groups

The protection policy paper requires humanitarian agencies to:

- ensure that gender and child-related aspects of displacement are considered in planning and programming. It notes that displacement tends to alter the structure of families and households and to change gender roles, with women often playing central roles in reducing the vulnerability of entire communities to the effects of displacement. Thus, their participation in the design of protection strategies is essential.
- continue to study gender relations and how these have been affected by displacement, including through the routine compilation of gender-specific information in assessments.
- ensure that the protection needs of children, in particular of unaccompanied minors and child soldiers, are taken into consideration by all UN agencies, using the Convention on the Rights of the Child as a basis for advocacy and programming.
- give more attention to the needs of other vulnerable groups such as older people and the physically disabled.

In all of the countries visited bar one, there was clearly awareness on the part of humanitarian actors of the importance of addressing the needs of women and children and other vulnerable groups among the displaced.

In some countries, inter-agency bodies existed to address issues of child protection as well as sexual exploitation and sexual and gender-based violence, not least due to the prominence of this issue in 2002 because of well-publicized claims of sexual exploitation by humanitarian workers in West Africa.¹¹⁷

According to a number of interviewees, responding to cases of sexual and gender-based violence was problematic in part because of the lack of information about the extent of the problem in a given country. The victims of such violence, both male and female, were understandably reluctant to come forward and report incidents, particularly when the perpetrators were from the armed forces or police, though efforts to overcome this problem were being made in two of the countries visited.

In one country, an international NGO had hired female staff to work in its clinics and had instructed them what to look out for in terms of sexual violence and had requested them to report to the capital on suspected cases. In another country, the UN Population Fund (UNFPA) was working with local women's groups to identify ways of collecting data on cases of sexual violence committed by the armed forces in order to get a sense of the scale of the problem and also to help with the prosecution of those responsible. UNFPA was also working with the Attorney General's office and the Ombudsman and was providing guidance to the police on working with victims of sexual violence.¹¹⁸

Other Vulnerable Groups. It is important to look at the needs of those who do not fall within the vulnerability categories identified by the IASC, a case in point being draft-age males. In one of the countries visited, the protection response of humanitarian agencies was focused on "separated children", "children associated with armed groups", and "sexual violence". While those concerns were acute, also acute was the situation facing draft-age males who were at extreme risk of forced recruitment by militias—a major factor in fueling the conflict. In another country, an NGO pointed out that draft-age males were at particular risk of ill-treatment by the authorities if they required medical treatment. To the authorities, the need for medical treatment implied association with insurgent forces. As a result, draft-age males had to forego medical treatment or NGO staff had to adopt less visible approaches to providing treatment, at the risk of leaving their organizations open to accusations of assisting insurgents.

Elsewhere, concerns were raised about the tendency for UN country teams to consider the displaced a homogenous group when in fact there were minorities or clans among the displaced who were more vulnerable to abuse and exploitation and required specific measures to address their problems.

Monitoring and Reporting on Protection Needs

Field monitoring serves an important protection function by establishing a presence near at-risk populations and allows regular identification of groups that are at risk. It also allows for timely intervention at a local level which may be effective in ending or discouraging further abuse. The policy paper notes that if necessary, the HC/RC and the country team should relay such information to headquarters to ensure a timely and effective response. As one HC/RC put it, monitoring and reporting on problems "should be standard stuff".

But standard stuff it is not. The survey team found monitoring and reporting systems in only three of the nine countries visited. In one of these, OCHA field staff systematically collected and verified information on protection concerns obtained through interviews with displaced and other war-affected communities and from partner agencies and NGOs. This information

was then conveyed on a monthly basis to the capital where it was consolidated into a national “protection tracking matrix”. The matrix outlined particular protection problems by province and indicated “suggested action” to be undertaken at both the field level by the OCHA field staff and at the national level by the HC/RC, including briefing donors on specific issues and interceding with national and local authorities. The matrix was then submitted to an inter-agency “protection technical group”, which selected issues for attention that month and which formed the basis for the advocacy efforts of the HC/RC. In addition, donors and high-level UN officials visiting the country were asked to raise these same issues in their meetings with government officials. These efforts were successful in communicating field-based protection concerns to the capital, although a number of NGOs called for greater transparency about the steps actually being taken by the HC/RC.

In another country, UNHCR had established a less elaborate but no less important system of monitoring and reporting. Protection officers submitted protection-related information obtained from UN agencies, NGOs and other relevant actors on a daily basis to field offices. This information was compiled in a database and consolidated into a weekly two-page “highlights” note which was sent to the capital. The note provided the basis for a monthly “operational situation report” for a given area, providing information on the general situation, particular developments that month, the numbers of displaced persons present, issues related to their integration and resettlement, and protection issues including information on women, children and other groups of special concern. On the basis of the information received, interventions were undertaken either by the protection officer, senior staff from the relevant field office or the capital, including the UNHCR country representative.

In the third case, OCHA staff managed a UNDP-funded “protection project” which included the establishment of a joint governmental-NGO system of monitoring and reporting on abuses in camps for the displaced, albeit restricted to those camps located around the capital. OCHA provided material and logistical support and acted as the secretariat for information received on a regular basis from NGO and local authority monitors who resided in the camps with the displaced. The survey team, however, had concerns about the confidentiality of the information forwarded and the safety of those reporting the violations—concerns that were subsequently addressed.

In the remaining five countries, although some agencies had instructed field staff and implementing partners to routinely submit information concerning protection problems, reports were often not forthcoming and information that was obtained was often not shared with other members of the country team.

In a number of countries, NGOs were unaware of reporting mechanisms and did not express interest in participating in UN human rights reporting mechanisms, although

information was often shared informally. In one country, UNHCR took the unprecedented step of creating a national NGO to undertake monitoring and reporting in those areas where UN staff had little or no access. Although some members of the country team and NGO staff complained that information gathered by this NGO was not shared with them, this was nonetheless a creative attempt to find a solution.

Elsewhere, the extension to the provinces of an OCHA-convened protection working group in the capital was expected to improve monitoring and reporting on the situation of the displaced and other war-affected groups. However, in the same country, an NGO enlisted by UNHCR to monitor and report on returning refugees was not tasked with monitoring and reporting on the returns of IDPs. OHCHR informed the survey team that it had considered taking on this task but had insufficient resources. Of great concern to the survey team and to many of those interviewed was that OHCHR previously had an extensive monitoring capacity throughout the country. Yet at the time of the visit there were only two international staff left in the monitoring unit from a previous staff of over twenty, and both were planning to depart. The monitors were extremely frustrated and demoralized, believing their hard work was going into a “black hole” and in the meantime were prohibited from sharing information with other UN agencies on the ground.

In another country, OHCHR staff were considering the creation of a national network of NGOs given their level of access to the displaced and other vulnerable groups. However, the survey team found that in one country where there existed such an information network, UN agencies had yet to tap into this source in an effective manner. Staff of the NGO reported that they never received any feedback from the UN on the information provided, while the ICRC would often seek further details on issues raised in the reports.

A UN agency in one of the countries had instituted reporting by field staff on incidents “affecting our work or the people we work with”, which included IDPs. However, the documentation of violations against the displaced and other beneficiaries was undertaken in order to demonstrate the need for additional funds for staff security rather than for the purpose of developing an effective protection program. That said, the agency did raise protection issues with government officials and share information with protection-oriented members of the country team and the HC/RC.

Rather disturbingly, one UN staff member informed the survey team that his attempts to bring protection concerns to the attention of his superiors in the capital had not been well-received. The staff member was informed that raising such issues “is not my job”. To the contrary, the UN policy paper clearly states that where violations of international standards occur, field staff of UN agencies, NGOs and international organizations “should ensure that the information is communicated to officials and/or institutions that are in a position to act upon it”

***UN peacekeeping
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UN Peace Missions. UN peacekeeping troops and ceasefire observers should play a fundamental role in reporting on human rights conditions. One peacekeeping official described such conditions as the “building blocks in our information network”, whose reporting functions had evolved from ceasefire violations to the more “general situation”. Interestingly, the daily report form used in the country at the time of the team’s visit covered the political and military situation as well as civil affairs and humanitarian issues, including refugees and human rights violations. “Internally displaced persons” as a category, however, was conspicuously absent, though it may be that issues regarding the displaced were addressed under the refugee heading. To be sure, this was a step in the right direction, though an NGO report on this particular peacekeeping mission noted that many ceasefire monitors’ reports “are coded ‘NTR’ (Nothing to Report)”.

A number of interviewees also questioned the quality of the reporting on non-military issues, noting that due to the limited interaction of the ceasefire observers with the local population and their tendency to rely on information provided only by the local or *de facto* authorities, their view of the situation on the ground tended to be one-sided and not always accurate.

Humanitarian Situation Rooms and Information Centers. In at least two of the countries visited, where UN agencies and NGOs were taking steps to collect information on abuses affecting IDPs and other civilians, it was not apparent that this information was shared with other agencies or was fed into a central collection point. One UN official suggested the establishment of a central point to which information collected, including on protection, would be conveyed and analyzed.

In one country visited, an inter-agency “humanitarian situation room” had been established to act as a repository of information from different agencies and NGOs. The information was then analyzed and compiled into a humanitarian situation report. However, the report was not intended to be protection specific, and discussions were underway as to what sort of protection information it should provide. Similar steps were being taken in two other countries visited, though the extent to which these sit-

uation rooms or information centers received information pertaining to protection appeared to be limited.

There is an increasing awareness within the humanitarian community of the utility of “humanitarian information centers” (HICs). The IASC Working Group at its meeting in March 2003 endorsed the concept of HICs as a means of supporting the coordination of humanitarian assistance “through the provision of information.”¹¹⁹ Assuming that HICs become a more common feature on the humanitarian landscape it would be important to examine the role that they might play in collecting and providing information on protection issues.

A More Systematic Approach. Although the efforts described above are encouraging to varying degrees, they do underline the need for country teams to adopt a far more systematic approach to monitoring and reporting. The failure of a UN country team to develop reporting mechanisms is an extremely serious omission of responsibility, and questions should be asked about why a system has not been developed. It is simply not possible to develop an effective protection program without reliable data and informed analysis of the information that is collected.

In a given country there may exist any number of civil society actors: professional groups such as bar, medical and teachers associations, faith-based organizations, journalists, and trade unions. There are also field-based staff, such as representatives of national and international NGOs and UN agencies. The national staff may come from displaced and other vulnerable communities and usually have special insight into protection problems and can assist expatriates in developing valuable contacts. The staff of regional organizations may in some cases have an express human rights monitoring mandate. In short, there are significant numbers of persons in the field in daily contact with displaced people and other communities who possess information on the situation, and the problems and needs of people at risk. The problem is that this information often does not reach those who can act upon it.

Access to credible and verified information allows HCs/RCs or country teams to identify trends and patterns and provides them with solid information on which to base advocacy efforts. It provides an important opportunity to engage the Emergency Relief Coordinator, the High Commissioner for Human Rights and the Representative of the Secretary-General on Internally Displaced Persons, as well as the diplomatic and donor community.

According to one HC/RC, access to reliable and detailed information “allows us to answer [the government’s routine riposte of] ‘what are the facts?’” or “on what information are you basing your allegations?” Another UN official noted that a credible system of monitoring and reporting allows the HC/RC to go to the government and say, “you have a

problem, these patterns are emerging” and to request that appropriate steps be taken to respond. Donor and other governments also need accurate information. As one diplomat explained, one reason mitigating against issuing demarches was the absence of detailed information on conditions.

Monitoring and reporting are also essential to the country teams’ understanding of the humanitarian crisis in the country. In one of the countries, interviewees were concerned that the country team did not fully understand the dynamics of the crisis and had failed to recognize that some of the displaced fled because they were being specifically targeted and persecuted as individuals, and therefore required a different response from that needed in the case of families and communities fleeing *en masse* from the direct or indirect effects of conflict.

Monitoring and establishing trends and patterns of abuse improve the possibility of anticipating and identifying where and when violations are likely to occur. This enhances opportunities to take preventive measures, such as increasing international presence in a given area or requesting members of the diplomatic community and officials at headquarters to intercede with the relevant authorities. It also allows for the pre-positioning of emergency relief items such as food, medical supplies and shelter materials in the event that preventive measures are unsuccessful.

Monitoring, reporting and importantly, documenting abuses, are also critical to countering the impunity for human rights and humanitarian law violations endemic in every single country visited. The important advances in recent years towards ending impunity through international and national tribunals and truth commissions must be further supported by advances at the field level to ensure that the regular documentation of abuses go toward possible future prosecutions.

Noteworthy is that the Statute of the International Criminal Court allows the Court to ask any intergovernmental organization to provide information or documents.¹²⁰ Indeed, an agreement between the Court and the UN provides that the UN undertake to cooperate with the Court and to provide the information and documents requested.¹²¹

Of course, instrumental to the success of field-based protection is the need to complement monitoring and reporting systems with effective intercession strategies that can range from local level intercessions by trained and experienced staff to a demarche by the HC/RC. If there is confidence on the part of those reporting violations that advocacy will take place, it will serve to ensure the continued participation of those providing the information, despite the dangerous undertaking this may represent.

ENDNOTES

1. The Guiding Principles on Internal Displacement set forth the rights of IDPs, see UN doc. E/CN.4/1998/53/Add.2 (1998), available at www.unhchr.ch
2. The SPHERE Minimum Standards, developed by non-governmental organizations and the Red Cross Movement, promote accountability in the provision of disaster assistance, see www.sphereproject.org/index.htm.
3. Email correspondence with a representative of UNDGO, 8 September 2003. On file with the authors.
4. Email correspondence from the ERC to the HCs, dated 5 September 2003. On file with the authors.
5. See *Draft resolution submitted by the Vice-President of the Economic and Social Council, Mr. Valery P. Kuchinsky (Ukraine), on the basis of informal consultations: Strengthening the coordination of humanitarian assistance of the United Nations*, UN doc. E/2003/L.28 (16 July 2003).
6. In this report and in line with the description provided in the Guiding Principles on Internal Displacement, the term "internally displaced persons" refers to "persons or groups of persons who have been forced to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised state border." The Guiding Principles on Internal Displacement can be found in the *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1997/39. Addendum: Guiding Principles on Internal Displacement*. UN doc. E/CN.4/1998/53/Add.2 (1998). Available at www.unhchr.ch
7. Refugee Policy Group, *Human Rights Protection for Internally Displaced Persons: An International Conference, June 24-25, 1991* (1991) 2. See also Refugee Policy Group, *Human Rights Protection for Internally Displaced Persons*, conference background paper, by Roberta Cohen, June 1991.
8. *Analytical report of the Secretary-General on internally displaced persons*, UN doc. E/CN.4/1992/23 (1992), para.9.
9. *Renewing the United Nations: A Programme for Reform*, UN doc. A/51/950 (1997), para.186.
10. *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1999/47*, UN doc. E/CN.4/2000/83 (2000), para.37.
11. Established pursuant to General Assembly resolution 46/182 (1991), entitled "Strengthening of the coordination of humanitarian emergency assistance of the United Nations", the IASC, chaired by the Emergency Relief Coordinator ensures inter-agency decision-making in response to complex and major emergencies. It is comprised of the executive heads of the Food and Agricultural Organization, the Office for the Coordination of Humanitarian Affairs, the United Nations Children's Fund, the United Nations Development Program, the United Nations High Commissioner for Refugees, the World Food Programme and the World Health Organisation. Its standing invitees include the International Committee of the Red Cross, the International Federation of the Red Cross and Red Crescent Societies, the International Organization for Migration, the Office of the High Commissioner for Human Rights, the Representative of the Secretary-General on Internally Displaced Persons, the World Bank, and three NGO consortia, InterAction, the International Council on Voluntary Agencies, and the Steering Committee for Humanitarian Response.
12. IASC, *Protection of Internally Displaced Persons – Inter-Agency Standing Committee Policy Paper Series, No.2*, New York: United Nations (2000) 2.
13. *Ibid*, at 2.
14. The Internal Displacement Unit was restructured and renamed the Inter-Agency Internal Displacement Division in July 2004.
15. According to its terms of reference, and "towards the overall goal of enhancing the response of the international community to the needs of the internally displaced" the Working Group undertakes to:
 - (i) regularly review all issues relating to internally displaced persons, ensuring that issues requiring attention and/or action by the Emergency Relief Coordinator and the Inter-Agency Standing Committee are submitted to them with specific recommendations;
 - (ii) review, endorse and/or amend specific field coordination arrangements recommended by the resident/humanitarian coordinator and country team, including strategies and division of institutional responsibilities for the provision of assistance and protection to, and the reintegration of internally displaced persons at country level;
 - (iii) provide guidance to the resident/humanitarian coordinator on all issues affecting internally displaced persons through, *inter alia*, the development of global strategies for ensuring protection, humanitarian/development assistance, and sustainable development solutions for internally displaced persons and support for the role of the UN High Commissioner for Human Rights;
 - (iv) recommend to the ERC ways and means to address obstacles in the provision of assistance to and protection of internally displaced persons, with particular attention paid to the special needs of vulnerable groups among them, including women, children and the elderly;
 - (v) promote respect for and observance of international law and principles, including the Guiding Principles on Internal Displacement;

- (vi) support the identification and development of best practices on internally displaced persons, and the use of these as the basis for programs;
- (vii) provide support for all aspects of the mandate of the Representative of the Secretary-General on Internally Displaced Persons and closely collaborate with the Representative in the discharge of his functions;
- (viii) ensure that the needs of internally displaced persons are fully taken into account in resource mobilization processes;
- (ix) support, oversee and evaluate the pilot phase of the database of internally displaced persons and provide feedback to further improve the database, its dissemination and use wherever appropriate; and
- (x) support and oversee the development and use of materials for training and capacity-building on the issue of internal displacement.

To facilitate its undertaking these various tasks, internally displaced persons is a standing item on the Working Group's agenda. It should be noted that the database project referred to in point (ix) has since evolved into the Global IDP Database, as managed by the Norwegian Refugee Council (NRC) in Geneva, and available at www.idpproject.org

- 16. IASC, note 12 above.
- 17. E/CN.4/2000/83 (2000), para.39.
- 18. IASC, note 12 above, at 3.
- 19. IASC, note 12 above, at 4.
- 20. On the workshops and their findings, see further, Sylvie Caverzasio, *Strengthening Protection in War – A Search for Professional Standards* Geneva: ICRC (2001).
- 21. International human rights law does, however, allow States to derogate or suspend the applicability of certain human rights guarantees in emergency situations. That said, human rights treaties allowing for derogations regularly list several rights which cannot be suspended, even in times of emergency. Among these non-derogable guarantees are the right to life, the prohibition of torture, cruel and inhuman or degrading treatment and punishment, the prohibition of slavery and the prohibition of retroactive application of penal law. See further, *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1995/57. Compilation and analysis of legal norms*, UN doc. E/CN.4/1996/52/Add.2 (1996), paras.31-35.
- 22. IASC, note 12 above, at 4-5.
- 23. *Ibid.*, at 5.
- 24. Of particular note, in a number of countries the Guiding Principles have been used in the formulation of domestic law and policy frameworks on the protection of the internally displaced. They have also been invoked in domestic court judgements as providing guidance on the application of relevant national law to the internally displaced. For more information on the "standing" of the Guiding Principles see the annual reports of the Representative of the Secretary-General to the UN Commission on Human Rights, available at www.unhchr.ch
- 25. IASC, note 12 above, at 5.
- 26. *Ibid.*
- 27. IASC, note 12 above, at 5.
- 28. *Ibid.*, at 11.
- 29. Principle 3(1).
- 30. IASC, note 12 above, at 11.
- 31. *Ibid.* See also Principle 27(1) of the Guiding Principles, according to which "international humanitarian organisations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard." As one observer notes, the decision to link assistance and protection in the Principles "is a judicious one indeed, for no operation strictly limited to the delivery of relief supplies can be fully effective ... the concepts of protection and assistance are closely linked, if not virtually dissociable. In practice, assistance very often serves as a means of protecting the population concerned." Jean-Philippe Lavoyer, "Guiding Principles on Internal Displacement", in 38 *International Review of the Red Cross*, No. 324, at 477, cited in Walter Kälin, *Guiding Principles on Internal Displacement – Annotations, Studies in Transnational Legal Policy*, No. 32, Washington DC: American Society of International Law and the Brookings Institution Project on Internal Displacement (2000) at 67.
- 32. As the Secretary-General has observed, "[d]evelopments in the present decade have underscored that human rights are inherent to the promotion of peace, security, economic prosperity and social equity. Governments increasingly recognise that respect for human rights, including the rights of women, is a precondition for political stability and socio-economic progress." He continues: "By virtue of its worldwide membership, the Organisation provides a unique institutional framework to promote human rights and to develop the legal, monitoring and operational instruments that can better uphold their universal character while maintaining a full understanding of, and respect for, the broad range of national and cultural diversities. A major task for the future will be to enhance the human rights programme and integrate it into the broad range of the Organisation's activities, including in the development and humanitarian areas." A/51/950, paras.194 and 196 (emphasis added).
- 33. IASC, note 12 above, at 11 (emphasis added).
- 34. *Ibid.* In September 2004, the IASC Working Group adopted new guidance on the implementation of the collaborative approach in the form of the IASC "Policy Package". The purpose of the policy package is to provide Humanitarian Coordinators and Country Teams

- with the guidance and tools required to implement the collaborative response to situations of internal displacement in a more effective, transparent and comprehensive manner. The policy package is composed of *Guidance to HCs/RCs and Country Teams on implementing the Collaborative Response*, which includes a one-page roadmap that outlines the steps that should be taken to reach an inter-agency division of labor on internally displaced persons; a *Strategy Checklist* to assist Country Teams in developing the Strategic action Plan to respond to assistance and protection needs; an *Activities List* to assist HCs/RCs in determining the roles of the different agencies in the different phases of displacement; additional guidance on the issue of protection for IDPs; and an overview of support tools available to HCs/RCs and Country Teams from headquarters.
35. *Ibid.*
 36. *Ibid.*
 37. See *Statement by the President of the Security Council*, UN doc. S/PRST/2000/1. See also: USUN Press Release, "Statement by Ambassador Richard C. Holbrooke, United States Permanent Representative to the United Nations, Cardozo Law School, New York, March 28, 2000" (28 March 2000); ICVA, "New Momentum for a Single Agency Mandated to Protect and Assist IDPs", *ICVA Talk Back*, Vol. 2, No. 2 (March 2000).
 38. IASC, *Supplementary Guidance to Humanitarian/Resident Coordinators on their Responsibilities in Relation to Internally Displaced Persons* (April 2000). Reproduced as Annex B in IASC, note 7 above, at 27-30. In addition to the drafting and adoption of the Supplementary Guidance, the IASC also took the step of establishing in September 2000 a Senior Inter-Agency Network on Internal Displacement which was mandated to undertake country missions with the goal of making recommendations (through its Special Coordinator) to the Secretary-General and the ERC for enhanced inter-agency approaches to internal displacement. This approach ultimately led to the establishment of the OCHA Internal Displacement Unit in January 2002. See *Interim Report from the Special Coordinator of the Network on Internal Displacement* (9 April 2001). See also, ICVA, "Moving Ahead on the IDP Debate", *ICVA Talk Back*, Vol.3, No.2 (April 2001).
 39. Pursuant to the Secretary-General's program for reform and the subsequent recommendations of the IASC relating to the Review of the Capacity of the United Nations System for Humanitarian Assistance (October 1998).
 40. IASC, note 12 above, at 29, para.8.
 41. See UN Security Council resolution 1265 (1999). See also SC resolution 1296 (1999).
 42. *Ibid.*
 43. In 2004, the Commission on Human Rights called upon the Secretary-General to create a new mechanism to build upon the work of the Representative of the Secretary-General on Internally Displaced Persons. Accordingly in September 2004, the Secretary-General appointed a "Representative of the Secretary-General on the Human Rights of Internally Displaced Persons." The current Representative is mandated to "address the complex problem of internal displacement, in particular by mainstreaming human rights of the internally displaced into all relevant parts of the United Nations system" and "work for the strengthening of the international response to the complex problem of situations of internal displacement, and engage in coordinated international advocacy and action for improving protection and respect of the human rights of the internally displaced, while continuing and enhancing dialogues with Governments, as well as non-governmental organizations and other relevant actors." See Commission resolution 2004/55, 20 April 2004.
 44. IASC, note 12 above, at 28, para.9.
 45. *Ibid.*, at 28, para.10.
 46. A complex emergency is defined by the IASC as "a multifaceted humanitarian crisis in a country, region or society where there is total or considerable breakdown of authority resulting from internal or external conflict and which requires a multi-sectoral, international response that goes beyond the mandate or capacity of any single agency and/or the ongoing United Nations country programme." Adopted by the IASC in December 1994. Reproduced in OCHA, *OCHA Orientation Handbook*, New York: United Nations (2002) 9.
 47. IASC, note 12 above, at 28, para.11.
 48. *Ibid.*, at 29, paras.15-16.
 49. *Ibid.*, para.29.
 50. *Ibid.*, para.18.
 51. *Ibid.*, at 13.
 52. *Ibid.*, at 13 and 30, para.24.
 53. *Ibid.*, at 30, paras.22-23.
 54. *Ibid.*, at 30, para.24.
 55. *Ibid.*, at 30, para.19.
 56. IASC, note 12 above, at 30, para.19.
 57. *Ibid.*, at 30, para.20.
 58. IASC, *Revised Terms of Reference for the Humanitarian Coordinator, Final Draft* (29 August 2003), at para.14.
 59. *Ibid.*, at para.20.
 60. See Administrative Committee on Coordination, *The United Nations System and Human Rights: Guidelines and Information for the Resident Coordinator System* (March 2000). The ACC has since been renamed the Chief Executives Board (CEB). It meets twice a year and is chaired by the Secretary-General and composed of the Executive Heads of the 28 member organizations, including UN agencies, the World Trade Organization and the Bretton Woods Institutions. Its aim is "to further coordination and cooperation on the

whole range of substantive and management issues facing the UN system." See further: ceb.unsystem.org

61. *Ibid.*, at para.12.
62. *Ibid.*, at para.13.
63. *Ibid.*, at para.11.
64. Administrative Committee on Coordination, *Guidelines on the Functioning of the Resident Coordinator System* (1999).
65. Nicola Reindorp and Peter Wiles, *Humanitarian Coordination: Lessons from Recent Field Experience – A Study Commissioned by the Office for the Coordination of Humanitarian Affairs*, London: Overseas Development Institute (June 2001) 20.
66. According to the statement of "common understanding" on the human rights based approach to development cooperation, as discussed at the Second Inter-Agency Workshop on Implementing a Human Rights Based Approach in the Context of UN Reform in May 2003: "(1) All programmes of development cooperation, policies and technical assistance should further the realisation of human rights as laid down in the Universal Declaration ... and other international human rights instruments. (2) Human rights standards contained in, and principles derived from, the Universal Declaration ... and other international human rights instruments guide all development cooperation and programming in all sectors and in all phases of the programming process. (3) Development cooperation contributes to the development of the capacities of 'duty-bearers' to meet their obligations and/or 'rights-holders' to claim their rights." See *Report of the Second Inter-Agency Workshop on Implementing a Human Rights Based Approach in the Context of UN Reform* (Stamford, 5-7 May 2003).
67. William G. O'Neill, "The Current Status of the Human Rights Mainstreaming – Review of Selected CCA/UNDAs and RC Annual Reports" (23 April 2003) at 2. On file with the authors.
68. A point which has not been entirely lost at headquarters. See the *Evolving Role of the Resident Coordinator*, a paper prepared for the UN's Senior Management Group, a committee of senior UN managers that serves as the Secretary-General's cabinet and the central policy planning body of the UN. According to the paper: "The way the United Nations reacts to the removal or delay/rejection of RC candidates needs to be reviewed. One challenge is to ensure that the rejection of a candidate or removal of an RC/HC doesn't work in discouraging risk-taking in the interest of UN principle... Headquarters departments need to support the RC/HC role more openly and actively. Whenever there is a matter of life or death (e.g., the protection of civilians in armed conflict) and the [RC/HC] leads a decision-making process, there should be visible, substantial involvement of more senior levels at headquarters... We may wish to resist more openly attempts by Governments to have RCs withdrawn so raising the cost to government of such actions. Until now we have tended to avoid 'a fuss'". *The Evolving Role of the Resident Coordinator*, at 3-4. Background document for sessions 1-5 of the RC Induction, New York 3-18 February 2004. On file with the authors.
69. In a similar vein, albeit in a different context, the UN Panel on Peace Operations has observed that "[i]mpartiality for [UN peace operations] must ... mean adherence to the principles of the [UN] Charter: where one party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the United Nations can in the best case result in ineffectiveness and in the worst may amount to complicity with evil. No failure did more to damage the standing and credibility of UN peacekeeping in the 1990s than its reluctance to distinguish victim from aggressor." See *Report of the Panel on United Nations Peace Operations*, contained in *Identical letters dated 21 August 2000 from the Secretary-General to the President of the General Assembly and the President of the Security Council*, UN doc. A/55/305-S/2000/809 (2000) ix.
70. *Ibid.*, at para.1.
71. Article 55(c), UN Charter.
72. Some resolutions, for example, call for the "establishment and use of effective arrangements for investigating and prosecuting serious violations of humanitarian and criminal law, at the local and/or international level (from the outset of [a peacekeeping] operation)." See further the Security Council's *Aide Memoire for the consideration of issues pertaining to the protection of civilians during the Security Council's deliberation of peacekeeping mandates*, contained in *UN Security Council Presidential Statement*, UN doc. S/PRST/2002/6 (15 March 2002).
73. See *Note of Guidance on Relations between Representatives of the Secretary-General, Resident Coordinators and Humanitarian Coordinators* (30 October 2000), at para.2.
74. See A/55/305-S/2000/809 (2000), para.99. Others, notably within the humanitarian community, have been somewhat less enthusiastic. See further, Humanitarian Practice Network, "The Brahimi Report: Politicising Humanitarianism?", *Humanitarian Exchange*, No.18 (March 2001) 38.
75. See General Assembly resolution 48/141.
76. Thomas Weiss, cited in *Taking Stock and Charting the Future: International Symposium on the Mandate of the Representative of the UN Secretary-General on Internally Displaced Persons, Vienna, Austria, December 12-13 2002*, Washington, D.C.: Brookings Institution-SAIS Project on Internal Displacement (2003) 7.
77. *Ibid.*
78. E/CN.4/2000/83 (2000), at para.61.
79. *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to*

Commission on Human Rights resolution 2002/56. Addendum. Profiles in displacement: Turkey, UN doc. E/CN.4/2003/86/Add.2 (2003), Executive Summary.

80. Reindorp and Wiles, note 65 above, at 41.
81. For more information on the potential role of the human rights treaty bodies *vis-à-vis* protecting the rights of internally displaced persons, see Joan Fitzpatrick, *Human Rights Protection for Refugees, Asylum-Seekers, and Internally Displaced Persons: A Guide to International Mechanisms*, Ardsley, New York: Transnational Publishers (2001). Drawing on this volume, the Brookings-SAIS Project is preparing a manual specific to internally displaced persons on accessing treaty bodies to address their protection concerns and which would also be of value to UN and NGO staff.
82. For instance, in December 1999, the UN High Commissioner for Human Rights, the Secretary-General of the Council of Europe and the OSCE's High Commissioner for National Minorities issued a joint statement expressing their profound concern at the situation unfolding in the Republic of Chechnya in the Russian Federation and the need for Russian forces to conduct their activities in accordance with international human rights and humanitarian law. OSCE, "Concern Expressed over Civilian Situation in Chechnya", Press Statement (8 December 1999). Available at: www.osce.org/news/generate.php?news_id=379
83. See Roberta Cohen and Francis M. Deng, *Masses in Flight – The Global Crisis of Internal Displacement*, Washington D.C.: Brookings Institution (1998) 132.
84. *Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict*, UN doc. S/2001/331 (2001), para.9.
85. See further Nicholas Leader and Joanna Macrae (eds), *Terms of Engagement : Conditions and Conditionality in Humanitarian Action – Report of a Conference Organised by the Overseas Development Institute and the Centre for Humanitarian Dialogue in Geneva, 2-4 May 2000*, HPG Report 6 (July 2000).
86. *Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict*, UN doc. S/2002/1300 (2002), para.19.
87. Drawing on these and other initiatives to engage non-state actors, the IASC Working group is in the process of drawing up guidance in the form of an IASC manual on field practices in humanitarian negotiations with armed groups. The publication is currently being developed by the IASC Working Group's Task Force on Engagement with Armed Actors. A first draft is expected in mid-April 2004. The project initially began in 2002 but was then put on hold until mid-2003 due to lack of funds. See IASC, *Draft IASC Workplan 2004* (3 December 2003). On file with the authors.
88. *Note of Guidance*, note 73 above, at para.5.
89. Bill Frelick, cited in Diane Paul, *Protection in Practice: Field Level Strategies for Protecting Civilians from Deliberate Harm*, Overseas Development Institute, Relief and Rehabilitation Network Paper, No. 30 (July 1999) 10.
90. Subsequent to the survey team's mission, two UN ceasefire observers were murdered in May 2003.
91. Security Council resolution 1484 on the Democratic Republic of Congo (30 May 2003).
92. A/55/305-S/2000/809, para.62, citing the *Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda*, UN doc. S/1999/1257 (1999) 51.
93. *Ibid.*, at para.63. See also William G. O'Neill, *The New Challenge for Peacekeepers: The Internally Displaced*, Washington D.C.: Brookings-SAIS Project on Internal Displacement (April 2004).
94. See General Assembly resolution 55/2 (2000).
95. The UN employs five security phases: one – precautionary; two – restricted movement; three – relocation; four – program suspension; five – evacuation.
96. See *Report of the Independent Panel on the Safety and Security of UN Personnel in Iraq* (20 October 2003). Available at: www.un.org/News/dh/iraq/safety-security-un-personnel-iraq.pdf
97. For more information on the role of national human rights institutions and the protection of the internally displaced, see Mario Gomez, *National Human Rights Commissions and Internally Displaced Persons: Illustrated by the Sri Lankan Experience*, Washington D.C.: Brookings-SAIS Project on Internal Displacement (July 2002). In 2004, the Asia-Pacific Forum of National Human Rights Institutions and the Brookings-SAIS Project on Internal Displacement, in collaboration with national human rights institutions in the Asia Pacific region, began a program to expand the capacity of these institutions to address internal displacement.
98. See further Cohen and Deng, cited in Paul, note 89 above, at 9.
99. Overseas Development Institute, Humanitarian Policy Group, *Measuring Humanitarian Need – A Critical Review of Needs Assessment Practice and Its Influence on Resources Allocation – Preliminary Findings*. Prepared for Montreux IV: Donor retreat on the CAP and coordination on humanitarian emergencies, 26-28 February 2003.
100. See para.25 of the "Common Observations" of the fourth Donor Retreat on the Consolidated Appeals Process and Coordination in Humanitarian Emergencies, Montreux, 26-28 February 2003. On file with the authors.
101. James Kunder, *The Consolidated Appeals and IDPs – The Degree to which the UN Consolidated Inter-Agency Appeals for the Year 2000 Support Internally Displaced Populations*, Washington D.C.: Brookings Institution/UNICEF (2000).
102. OCHA, *Technical Guidelines for the Consolidated Appeals Process* (August 2002) 4.
103. OCHA, *CAP Training Programme* (April 2002) 2 and 41.

104. OCHA Financial Tracking System, "Evolution of Funding by Sector Over the Last 5 Years, 1999-2003", available at www.reliefweb.int/fts
105. A UN Development Assistance Framework (UNDAF) is "a common programme and resource framework for UN development agencies and programmes. Its purpose is to maximize the development impact of UN assistance by introducing goal-oriented collaboration in response to national development priorities, and to enhance coordination among individual programmes." The UNDAF process in a given country is based on a Common Country Assessment (CCA), which is "an overview of national development prepared in the light of a common set of indicators. The indicators reflect the priorities and mandates of UN organizations and the internationally agreed goals set by the various world conferences, including the 1993 World Conference on Human Rights." A Country Strategy Note (CSN), prepared by the government with the participation and assistance of the UN system, completes the UNDAF package. It establishes the national perspective and indicates how the United Nations system can contribute to the country's development objectives." Poverty Reduction Strategy Papers (PRSP) describe a country's macroeconomic, structural and social policies and programmes to promote growth and reduce poverty, as well as associated external financing needs. PRSPs are prepared by governments through a participatory process involving civil society and development partners, including the World Bank and the International Monetary Fund (IMF). See further "Mainstreaming Human Rights" on the OHCHR website at www.unhcr.ch/development/mainstreaming-04.html
106. O'Neill, note 67 above, at 3.
107. See further, United Nations Development Group, *UNDG Guidance Note to United Nations Country Teams on the PRSP* (8 November 2001).
108. For an albeit slightly dated critique of the efforts and attitudes of UN agencies towards integrating human rights into their activities, see Karen Kenny, *When Needs Are Rights: An Overview of UN Efforts to Integrate Human Rights in Humanitarian Action*, Occasional Paper No.38, Thomas J. Watson Jr. Institute for International Studies (2000). According to Kenny: "Each [agency] views its particular human rights mandate in partial terms. UNHCR thinks of its protection functions but not of its assistance activities in human rights terms. UNDP adds a human rights view to its development work but not to its emergency involvement... Most of the actors see the 'adding on' of an activity ... as the extent of the necessary integration of human rights in their operational work." Kenny, at xv-xvi.
109. As earlier noted, OHCHR has created a headquarters post concerned with mainstreaming human rights in humanitarian work, the terms of reference for which include the elaboration of an OHCHR policy paper setting out the objectives and modalities of integrating human rights into humanitarian work; providing policy guidance and advice to OHCHR field presences with regard to human rights in humanitarian action; and developing a program and materials for human rights training of humanitarian workers.
110. The Plan of Action stems from "Action 2" of the Secretary-General's second report on UN reform which noted that the emplacement or enhancement of a national protection system in each country, reflecting international human rights norms, should be a principal objective of the Organization. See further *Strengthening the United Nations: An Agenda for Further Change*, UN doc. A/57/387 (2002), paras.50-51. The Plan of Action is available at www2.undg.org/documents/3021-Strengthening_human_rights-related_United_Nations_action_at_country_level_-_Plan_of_Action.doc
111. See OCHA, *Report on the Working Group on OCHA Meeting, The Hague 13-14 May 2003*. On file with the authors.
112. Reindorp and Wiles, note 65 above, at 39.
113. *Ibid.*
114. *Ibid.*
115. *Ibid.*, at 26.
116. Marc Vincent, "Introduction", in Marc Vincent and Birgitte Refslund Sorensen, *Caught Between Borders – Response Strategies of the Internally Displaced*, London/Oslo: Pluto Press/Norwegian Refugee Council (2001) 1.
117. These led, amongst other things, to the establishment by the IASC Working Group of a Task Force on Sexual Exploitation and Abuse in Humanitarian Crisis in March 2002. The Task Force developed a Plan of Action covering issues of prevention and response, including the elaboration of core principles for a code of conduct for incorporation into agency codes of conduct. The Plan was adopted by the IASC in July 2002.
118. See also UNFPA, *Enlisting Armed Forces to Protect Reproductive Health and Rights: Lessons Learned from Nine Countries*, New York: UNFPA (2003). Although none of the nine countries referred to in the study are conflict countries, the report provides an interesting overview of the steps which can be taken to reach out to "men in uniform" as a way to promote HIV prevention, engage men as partners in gender equity and the reduction of gender based violence.
119. See the IASC-WG, 52nd Meeting, 12-13 March 2003, FAO Headquarters Rome, Summary Record and Action Points (3 April 2003), as well as the "HIC Background Note" and "Statement of Intent". On file with the authors.
120. Art.87(6) of the Rome Statute of the International Criminal Court.
121. See Art.15(1) of the "Draft Relationship Agreement between the Court and the United Nations", contained in Annex G of the *Official Proceedings of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002*, UN doc. ICC-ASP/1/3 (2002).



**The Brookings-Johns Hopkins SAIS Project
on Internal Displacement**

1775 Massachusetts Avenue, N.W., Washington, D.C. 20036-2188

TELEPHONE: (202) 797-6489 FAX: (202) 797-6003

E-mail: fpcomment@brookings.edu



UNITED NATIONS

OCHA Inter Agency Internal Displacement Division

Palais des Nations, OCHA - Internal Displacement Unit

8-14 Avenue de la Paix, 1211 Geneva, Switzerland

Telephone: + 41 22 917 2692 FAX: + 41 22 917 0608

E-mail: idpunit@un.org