



## *On the Record for Refugees*

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### Contents:

- **Editorial: Missing the Point on IDPs by Iain Guests**
- **About OTR**
- **Opinion: The Norwegian Refugee Council – Sharing the Responsibility of IDPs**
- **Repatriation Progress Reversed as Peace Eludes Africa, Says Ogata**
- **Excom Governments Urged to Halt “ Growing Prevalence” of Detaining Asylum Seekers**
- **Nansen Award Goes to Crimean Tatar Activist by Manisha Thomas**
- **Respect for Humanitarian Law Is the Best Way to Prevent Refugee Flows, Says Red Cross Chief by Nancy Beaudoin**
- **Focus on NGOs**
- **UNHCR Urged to Embrace Community Mobilization**
- **Pilot Study Confirms Potential of Aid Ombudsman, Says British Red Cross**
- **Bhutanese Refugees in Nepal See Little Hope of Solutions by Manisha Thomas**
- **Principled Approach By Teresa Crawford**
- **Colombian Nightmare by Nancy Beaudoin**

### From the AP Editorial Desk

#### Missing the Point on IDPs

Twenty-three million people are known as internally "displaced." They have been chased from their homes, shelled, and starved. The children among them are deprived of education, the women risk rape. Denied even the minimal protection afforded to refugees who succeed in fleeing abroad, their plight is dire. Yet much of the debate in humanitarian circles centers around which agency should assume responsibility for them. OCHA? UNHCR? The Red Cross?

Something is wrong here. We can all agree that internally displaced persons (IDPs) are falling through the cracks, and that the response of international agencies – including UNHCR – is inadequate and inconsistent. But the problem facing IDPs is not about UN coordination or about UNHCR's mandate – important as that may be. The problem is a growing contempt for the rule of law. The challenge is to protect IDPs from their own governments. We are asking agency coordination to serve as a substitute for political solutions.

Of course, the international system needs to respond better to the needs of IDPs. And it is. Three months ago an international criminal court was established in Rome with a mandate to prosecute crimes committed in internal armed conflict. Advocates must push their governments to ratify, and turn this court into a real instrument of protection. Two tribunals on Rwanda and the former Yugoslavia are accelerating their prosecution of war criminals. Francis Deng, the UN's Special Representative on IDPs, has produced a set of principles which could help not just to address the needs of IDPs, but broker peace. As we explain in this issue of On the Record, much more research needs to be done to understand and support the capacity of IDPs themselves to overcome their ordeal.

But Deng's principles will remain stillborn without the political will to act on them. The solution to the "IDP problem" rests with governments, including many members of this EXCOM. Sovereignty carries with it an obligation to protect one's own people, and IDPs will continue to suffer as long as governments refuse to take this obligation seriously. Advocates must not lose sight of the goal – or the real enemy.

### **Courage in the Crimea**

It is easy to be cynical about ceremonies in the Palais des Nations. They seem far removed from the prisons and refugee camps – from the front line. But there was something real, and reassuring, about the award of the Nansen award to Mustafa Dzhemilev, leader of the Crimean Tatars, here on Monday. Dzhemilev has helped over 250,000 Tatars return to their home in the Crimea (Ukraine). Today, he sits in the Ukrainian parliament, where he works to win Ukrainian citizenship for the returnees and improve their standard of living.

This is an inspiring story – and not just because Dzhemilev spent 20 years in prison or exile. As he said on Monday, while in exile the Tatars resisted the temptation to turn their cause into a nationalist struggle: that would have blocked their chance of return and created yet another open sore in Central Europe. The Tatars are now beginning to enjoy the benefits of this nonviolent strategy. They are proof that refugee crises are not insoluble. It is an inspiring lesson for other uprooted peoples, and proof that UNHCR does indeed have a role to play in finding "durable solutions."

### **About OTR**

We have had many queries about On the Record (OTR) – what it is, how it is funded, and what are its affiliations. As we are reminded, this has much bearing on the credibility of this publication. On the Record is an experiment. It is a product of The Advocacy Project, a loose association of individuals who have experience of international organizations and issues. We are not a nongovernmental organization – by design, but we do work with organizations. The first volume of On the Record was produced for the international conference to establish a criminal court. During this meeting of EXCOM, On the Record is being produced in partnership with ICVA, the International Council of Voluntary Agencies. We are seeking funds for this volume, but not from UNHCR, and we are editorially independent. We welcome support and comments. See below for how to subscribe.

## **Opinion: The Norwegian Refugee Council**

### **Sharing the Responsibility of IDPs**

The Norwegian Refugee Council welcomes the statement of the High Commissioner for Refugees stressing the need for increased international attention and support for the internally displaced. Worldwide, IDPs now outnumber refugees by at least 10 million. Increasingly, refugees, internally displaced, and returnees are found in the same areas, which underlines the need for concerted action and a sense of shared responsibility from the international community.

In the context of increased international coordination and cooperation in response to crises of internal displacement, the Norwegian Refugee Council continues to support the efforts and contribution of the UNHCR.

In addition, the Norwegian Refugee Council supports the work undertaken by the Emergency Relief Coordinator and the Secretary-General's Representative, Francis M. Deng, who are working to improve the international response to crises involving IDPs within the context of the United Nations reform process. While the reform process requires a cooperative approach within the humanitarian community, it cannot be realized without the political and financial support from donor States. We call upon States to provide the adequate level of support to the mandate of the Secretary General's Representative whose work has been instrumental in focusing international awareness on the problems of internal displacement. An improved response from the United Nations system to internal displacement would be even more efficient if sufficient resources are placed at the Representative's disposal. Donor states should also respond adequately to the consolidated inter-agency appeal for funding, especially for programs dealing with the strengthening of coordination by the Office for the Coordination of Humanitarian Affairs at the field level.

The response to internal displacement by the humanitarian community should also ensure that all needs of IDPs, both assistance and protection, are addressed. International protection provided to populations displaced within national borders can be a sensitive issue for which states are not always prepared to take action. The Guiding Principles on Internal Displacement, as submitted by the Secretary-General's Representative to the United Nations Commission on Human Rights in April 1998, now provide practical guidance for international involvement in activities on behalf of internally displaced. The dissemination of the Guiding Principles is now underway by the Representative and the Emergency Relief Coordinator, with the support of relevant intergovernmental and non-governmental agencies such as the Norwegian Refugee Council and the US Committee for Refugees. However, the impact of the Guiding Principles on the protection of internally displaced would be reinforced if more political and financial support were to be given to protection-related operational programs.

## **Repatriation Progress Reversed as Peace Eludes Africa, Says Ogata**

*Achievements cited in Guatemala, Niger, Bangladesh and Liberia*

Low-level conflict, stagnating peace agreements, and political indifference are reversing the positive trend towards repatriation throughout the world, but particularly in Africa, according to Ogata, the UN High Commissioner for Refugees.

In her annual review to the EXCOM, Ogata said that the predominance of military force over political negotiations is blocking refugee solutions. In addition, even if political settlements are reached, refugees are returning to a "fragile peace."

"Although previously an increased trend towards repatriation had given rise to the hope that refugee problems would be reduced, this year the overall figure of people of concern to UNHCR has only marginally reduced," she said. Worldwide, UNHCR assists 23 million refugees, displaced persons, or refugees who have returned home.

Ogata singled out several major refugee crises: Afghanistan, where fighting and "grave violations" of human rights has virtually stopped repatriation from Iran and Pakistan; Georgia, where 40,000 people fled from Gali – many of them for the second time – leaving 1,500 UNHCR-built houses to be looted and burnt; Cambodia, where 39,000 persons fled for the Thai border, six years after UNHCR repatriated 350,000 Khmer refugees from the Thai camps; and Nepal, where 95,000 Bhutanese refugees remain seven years after being expelled from their country.

But Africa dominated Ogata's address. The High Commissioner cited several factors, which have blocked progress towards solving refugee problems. These include the willful mutilation and killing of refugees by rebels in Sierra Leone – "perhaps the most horrifying example"; the resurgence of ethnicity, particularly in the Great Lakes; and the regionalization of wars.

This concern was expressed at a time when no fewer than five African nations are deploying troops in the Congo and many fear a resurgence of the deadly ethnic feud between the Hutu and Tutsis of Rwanda. "War and human displacement have become so complex in the region and their ramifications so wide, that I hesitate to simply refer to a 'Great Lakes' crisis," she said.

Today, she said, the main refugee caseload is to be found in Tanzania, where 260,000 Burundians are in UNHCR-assisted camps. But, she said, the regional crisis is complex and inter-related. "The search for solutions must have a strong regional foundation, with more international support. I am extremely concerned that if ethnic and nationality problems are not addressed – worse, if ethnic tensions are allowed or even encouraged to simmer – people may flee again in massive numbers."

In Angola, setbacks in the Lusaka Peace Accord and a fresh outbreak of fighting, have forced UNHCR to suspend the repatriation of refugees to Angola. UNHCR had to switch from assisting returns to meeting the new emergency.

In the Horn of Africa, the return of Ethiopian and Somali refugees is threatened. In the southern Sudan, war continues to block the return of refugees from Ethiopia and Uganda. In western Sahara, the repatriation of Sahrawi refugees hangs on the successful conclusion of the peace process.

This bleak assessment enabled the High Commissioner to stress – that refugee solutions depend on political will. When such will exists, she said, it can produce real results. 65,000 Chakma refugees returned voluntarily from India to Bangladesh. The repatriation of refugees to Mali and Niger has been completed. Almost 200,000 Liberians have returned home since December. The long-standing exile of Guatemalan refugees is nearing an end.

ECOWAS, the West African organization, has helped to end fighting in Sierra Leone and Guinea. "Should peace prevail in these two countries, the repatriation and reintegration of refugees and other uprooted people will be key elements of the peace building process in the entire region," she said. "We must start planning return and reintegration early."

This confirms that in spite of the setbacks, Ogata still intends to seize the initiative wherever there is the slightest opening. Some nongovernmental organizations (NGOs) feel that this is diluting UNHCR's ability to campaign on behalf of asylum. But Ogata evidently sees it as central to the pragmatic mission of her agency.

### **Excom Governments Urged to Halt "Growing Prevalence" of Detaining Asylum Seekers**

*Detention is used to deter and obstruct search for asylum*

A group of prominent NGOs has issued an open letter to the governments of EXCOM, urging them to reverse the alarming trend towards the detention of asylum seekers.

The letter, which is addressed primarily to Western governments, was issued at a briefing here Tuesday. It calls on EXCOM governments to reaffirm their commitment to the minimum standards articulated in EXCOM conclusion 44, which recognizes that the detention of asylum seekers is inherently undesirable, and should be resorted to only on an exceptional basis. Article 31 of the 1951 Convention provides that refugees should not be penalized on account of their unlawful entry or presence in a country of asylum.

Detention strikes a sensitive nerve at this discussion. Governments argue that it is increasingly difficult to separate "legal" asylum seekers from illegal immigrants, and that those who enter illegally will abscond or go underground. This is given as the main justification for detention in the protection note prepared for this conference.

But advocates for asylum respond that the obstacles being placed in the way of asylum leave asylum seekers no alternative but to use every means possible of seeking freedom. The real motive behind detention, they say, is to punish and deter. Leanne McMillan, of Amnesty International, told the briefing that detention must be seen in the broader context of a concerted policy of deterrence that ranges from interdiction on the High Seas to family separation.

In the case of Australia, whose policy of mandatory detention was recently condemned by the UN Human Rights Committee, 80% of the asylum-seekers detained go on to gain refugee status once their cases are heard. Meanwhile, said Margaret Piper from the Refugee Council of Australia, they are thoroughly traumatized and disillusioned with their country to be.

The open letter notes that in order for detention practices to accord with international law, "provision must be made for adequate access to UNHCR and to timely and effective review of their initial and continuing detention. In addition, detention must not obstruct in any way access by asylum seekers to full, fair, transparent, and timely refugee status determination procedures."

The note also calls for an end to the detention of minors and other vulnerable groups. It says that asylum seekers should never be detained together with criminals or the criminally accused.

UNHCR has been drafting new guidelines on the detention of asylum seekers that will be published shortly. A UNHCR legal officer explained that in addition to setting standards on detention itself, these will also cover alternatives to detention, including regular reporting and residence in "open centers." Ophelia Field, of the European Council on Refugees and Exiles (ECRE), agreed that alternatives must be explored. But, she insisted, the best alternative is unconditional release.

## **Nansen Award Goes to Crimean Tatar Activist**

by Manisha Thomas

The 1998 Nansen Medal has been awarded to Mustafa Dzhemilev, for his work in helping Crimean Tatars return to their native Ukraine.

The award was presented by High Commissioner Ogata at a ceremony on the opening day of the EXCOM. Speaking in his native tongue, Dzhemilev expressed deep gratitude for the award, which he said he accepted on behalf of all Tatars who had perished in exile. He also noted that a quarter million Tatars had returned to their homeland in the Crimea without resorting to arms or turning their cause into a nationalist struggle.

Dzhemilev was less than a year old when Tatars were deported from Crimea during the Soviet Stalinist period for alleged collaboration with the Nazis. When he was 19, Dzhemilev joined in the peaceful struggle to have the rights of the deported Tatars recognized. Between the mid-1960s and mid-1980s he suffered imprisonment and surveillance in exile. In May 1989, he was chosen to head the newly-created Crimea Tatar National Movement.

Since the break-up of the Soviet Union, 250,000 Tatars have returned from Uzbekistan to the Crimea (Ukraine). They are now trying to win Ukrainian citizenship, with the assistance of UNHCR and Max Van Der Stoel, the OSCE's (Organization for Security and Cooperation in Europe) High Commissioner for National Minorities. Ogata expressed optimism that 60,000 may benefit from a law currently in the making.

This makes the Tatars one of the few bright spots in a region that is otherwise messy and confused from the refugee perspective. It is also confirmation for Ogata's view that UNHCR can indeed help to promote "durable solutions." The award, she said, recognized "not only the achievements of one man, but also the courage and determination of an entire People."

In reply, Dzhemilev thanked those individuals, organizations, and radio stations who provided support from outside of the Soviet Union. "It is due to this kind of solidarity that our movement did not become a narrow nationalistic one, but has turned out to be one of the mighty branches of the democratic movement for the protection of human rights, and for the protection of the rights of all nations and ethnic groups."

The Nansen Medal is named after the first League of Nations High Commissioner for Refugees, Norwegian Fridtjof Nansen. Nansen conceived a makeshift document, known as the Nansen passport, which allowed thousands of post war refugees find a new home. He also led the massive international aid effort to avert famine in the Soviet Union – every bit as daunting as today's complex emergencies.

Dzhemilev warned that although most Tatars have returned home, many thousands still continue to live in exile, while the returnees in Crimea suffer from a lack of basic accommodations, unemployment, and representatives in the Parliament of Crimea. "The Crimean Tatar language, culture, and traditions are endangered and may disappear forever," said Dzhemilev.

The award helps to highlight the special problems facing stateless persons. These range from children born in refugee camps to entire ethnic groups that are arbitrarily deprived of their citizenship (like the Bhutanese refugees in Nepal).

## **Respect for Humanitarian Law Is the Best Way to Prevent Refugee Flows, Says Red Cross Chief**

by Nancy Beaudouin

The best way to prevent conflict and refugee movements is to respect humanitarian law, according to the president of the International Committee of the Red Cross (ICRC), Cornelio Sommaruga.

Speaking on Monday at EXCOM, Sommaruga said that greater respect for international humanitarian law would make it possible to prevent a large proportion of the population movements generally caused by armed conflicts.

"If there were no indiscriminate attacks on civilians, no policies of taking them as targets of hostages, no forced displacement or "ethnic cleansing," no deliberate starvation and no misappropriation of humanitarian aid, such conflicts – however violent – would largely spare noncombatants and avoid their being driven almost systematically onto the cruel road to internal or external exile."

These comments were made to governments that are largely preoccupied by "containing" refugee movements at source, and "sharing the burden" of refugees once they leave their country. The idea that such movements could actually be prevented by more respect for the rule of law has been promoted by Ogata, the High Commissioner. It will help to have the prestigious Red Cross Movement on her side.

The need for prevention is all the more urgent, said Sommaruga, because of the change in warfare from international to more complex internal conflicts, many involving non-State forces. This trend has made civilians much more vulnerable. Of all casualties 90% are civilians, compared to 76% in World War II.

The law exists in the form of the Geneva Conventions, and the additional protocols. The Additional Protocol II and common article 3 of the Conventions were developed to protect civilians in internal conflict.

But implementation is hampered by the fact that states frequently downgrade conflicts like Kosovo to the level of internal policing measures that fall outside the framework of common article 3 and Additional Protocol II, and the lack of an authoritative body to confirm or refute the categorization. This is not exactly the role of the ICRC itself, although the ICRC does have a "...special duty to work for the implementation of international humanitarian law..." But the ICRC is also under pressure: several ICRC delegates have been killed in recent years, forcing the agency's withdrawal from countries (e.g. Burundi).

The threat to law and to its own role has convinced the ICRC of the need to seek allies, notably UNHCR. Sommaruga also underlined the importance of the international criminal court (ICC) that was recently adopted in Rome and will come into being after 60 ratifications. ICRC delegates in Rome were unusually outspoken in their efforts to ensure that the ICC statute covers internal armed conflicts.

But coordination and cooperation between international agencies do not come easily, and the ICRC also guards its independence, its neutrality, and its turf jealously. Sommaruga said that as resources dwindle, the humanitarian community must avoid the duplication of service and "aid gaps." He said that the ICRC and UNHCR have now created a model agreement over Colombia. ICRC officials say that a coordinating group composed of UNHCR, ICRC, IOM, and several embassies (including Switzerland and Sweden) meet regularly in Bogota to review different requests from internally displaced who seek "temporary asylum" abroad.

Sommaruga also suggested that coordination would be easier if all relief agencies focused on the needs of "victims" in emergencies, using strategies aimed at "enabling (the victims) to regain



their autonomy." Not only would this improve coordination during the emergency, it would also smooth the transition from emergency to development.

Sommaruga also emphasized the commitment of the Red Cross Movement to Francis Deng's Guiding Principles on internally displaced persons. The International Federation of Red Cross and Red Crescent Societies, as well as ICRC, are circulating this document to delegations in the field.

This support is notable, because the ICRC has been somewhat lukewarm towards Deng's work. Humanitarian law does not recognize IDPs as a special category, but aims to protect the much broader category of noncombatants in war. There is a general sense at the ICRC that creating a special category could weaken the protection of this much larger group.

### **Focus on NGOs**

NGOs and UNHCR are reflecting on three days of discussions here last week. OTR looks at some of the ideas that emerged.

### **UNHCR Urged to Embrace Community Mobilization**

*Commitment to revise PAREnAC by the year 2000, revise operational standards for field projects*

UNHCR and its nongovernmental partners have used the occasion of this Executive Committee meeting to try and breathe new life and direction into their relationship.

This was done at a series of informal meetings that took place last week, during pre-EXCOM discussions. The measures envisaged include invigorating the PAREnAC (partners in action), which was launched in Oslo in 1993; setting out new operational guidelines that can ensure greater uniformity by NGOs and UNHCR in the field; and launching a blitz to "sell" the importance of community mobilization.

Working with communities might seem natural for an agency like UNHCR, which implements most of its programs through NGOs. But many NGOs clearly feel that UNHCR itself is still not fully convinced. Community participation should, they feel, be incorporated into UNHCR planning at the earliest stages – as is starting to happen with women and children. But first this will have to be "sold" to UNHCR staff at headquarters and in the field.

Why are they unconvinced? Partly because of UNHCR's "emergency mindset." During a refugee crisis, speed is of the essence and lives are at stake. Merely talking to community groups might seem to invite delays and obstruction. Even in refugee camps, community services is seen as "soft" aid and is often the first to be cut when funding dries up. During 1994-1996, many UNHCR officials felt that the provision of community services and even education in the Zairian camps for Rwandans served as a "pull factor" that discouraged refugees from returning home.

The same reservations exist when it comes to repatriation, when the priority is to get the buses rolling. Refugee communities – and their leaders – can obstruct and resist, as well as cooperate.

In short, there is a feeling that while UNHCR may pay lip service to community services and mobilization, it is somewhat less than committed. This is underscored by the fact that the budget for community services has fallen from \$37 million in 1996 to \$24 million in 1998. (Education has remained stable at around \$53 million.)

The first task, then, is to convince UNHCR that community participation is worth the effort. There is, suggested participants, no shortage of evidence. While promoting communities is a process that may not yield an immediate output like the delivery of water and food, it still serves UNHCR's goals during and after the emergency. Refugee communities care for orphans, disabled, and old people in camps and during the journey home.

Refugees derive confidence from numbers, and often return en masse in entire communities: this can be nurtured and promoted in the camps. A case study of the Rwandan repatriation by Redda Barnen, the Swedish agency for children, found that once refugees return home, community groups play an invaluable role in providing foster care for orphans and other unaccompanied minors.

This can save money. Craig Mason, who works with Bosnian NGOs at the National Support Unit in Bosnia, said that Bosnian returnees put up better houses when working in communities than as individuals, and are less likely to vacate their housing than when housing materials are handed over to individual families. He added that refugees are far more likely to return to minority areas – a critical goal of the Dayton peace agreement – when they return as groups.

The first task is to examine and explain these tangible benefits to UNHCR and to donors. This has yet to be done, and the result is that even the most visionary donors are often skeptical. Redda Barnen includes community participation at the earliest stages of an emergency relief operation, as a matter of policy, but it is hard to measure the results. Successes need to be studied, and indicators developed.

There is little doubt that donors, and UNHCR, will respond if community participation and mobilization can be shown to have practical advantages. But these have to be assessed with imagination. One of the strongest arguments for education is that it serves to protect boys and girls by keeping them out of uniforms and prostitution. The same arguments have to be found for communities.

There is certainly growing interest. Cornelio Sommeruga, president of the ICRC, told EXCOM on Monday that if all aid agencies focused their efforts on the needs of victims, it would improve coordination and also ease the difficult transition from emergency to development – a perennial headache. Substitute "communities" for "victims" (an unfortunate term) and the same point could be made.

At present, the most developed structure for cooperation between UNHCR and communities exists in the form of the PARinAC partnership that was established in Oslo in 1993. The meeting

issued 134 recommendations, some of which have been acted on. But there is wide agreement that the PARinAC needs to be invigorated and reshaped to meet today's challenges, said Maureen Connelly, head of UNHCR's liaison with NGOs.

UNHCR has now released a detailed plan of action in PARinAC, but doubts remain about the fundamental approach. Some kind of structure is clearly needed, and the essence of PARinAC is its network of regional focal points who work with NGOs in their country and coordinate the dialogue with UNHCR in their region. (3 are in Latin America; 3 in Asia; 2 in the Middle East; 3 in Africa; and 1 in Europe.)

These individuals are of the highest quality, as was shown by the way they responded to UNHCR's briefing during the pre-EXCOM debate. As it stands, the PARinAC structure can help coordinate between regional focal points, and even promote the dialogue with UNHCR. It may even help UNHCR to promote a new framework agreement for NGOs in the field that was unveiled at the pre-EXCOM discussions here last week, and is now being circulated for discussion.

This agreement is aimed at ensuring consistently high standards in the delivery of essential relief aid and eliminating the kind of chaos and overlap that can occur in emergency aid operations. The agreement will be voluntary, partly because Third World NGOs are worried that the standards are set too high. But some UNHCR officials hope it will evolve into a useful tool for improving its oversight of field operations – one of the principal demands made by UNHCR's auditors this year.

But the question is whether the PARinAC structure is capable of promoting a new approach that can succeed in mobilizing from the bottom up, and acting as effective advocates for refugees, asylum seekers and even UNHCR. All the many protection dilemmas discussed at EXCOM – from the attacks on UNHCR officials to the growing use of detention – would benefit from this kind of grass roots support.

But this comes back to the fundamental point: how much time and effort is UNHCR prepared to invest in working with communities? Last week's pre-EXCOM meeting showed that NGOs can be demanding, irritating, persistent, and provocative. They may be UNHCR's best friends, but this is a relationship that requires careful nurturing.

### **Pilot Study Confirms Potential of Aid Ombudsman, Says British Red Cross**

A pilot study has confirmed that an ombudsman system for use in humanitarian emergencies is not only feasible but desirable. Details of the study, and the proposals, were given at a briefing at the pre-EXCOM meetings, by the British Red Cross, which has acted as coordinator of the project on behalf of several British voluntary agencies. The study was funded by Oxfam, the British Red Cross, and the British government. Drawing on simulated emergencies, it concluded that a humanitarian ombudsman could play a valuable role in advising voluntary agencies how to abide by the main codes of practice that now exist on humanitarian assistance. These are the 1992 Red Cross and NGO Code of conduct (adopted by 144 agencies) and the Sphere Project

Minimum standards, which are currently being developed. The project is now moving to a second stage. It will expand beyond the UK, and be shared with a wide range of international actors in the hope of starting a detailed pilot project in the summer of 1999. This would look at up to three emergencies.

For more information: Deborah Doane, c/o British Red Cross.

## **Bhutanese Refugees in Nepal See Little Hope of Solution**

by Manisha Thomas

There was applause from the audience, but little consolation for Bhutanese refugee Mangala Sharma, when she expressed the frustration and despair of the 95,000 refugees living in camps in Nepal during last week's UNHCR's meetings with NGOs.

Her impassioned plea on behalf of BRAVVE (Bhutanese Refugees Aiding the Victims of Violence), was addressed to the chief of UNHCR's Asia Bureau and later to the High Commissioner. Both replies were rather short and did not provide Sharma with the answers she was looking for. "I was not satisfied with UNHCR's answers. I had a lot of expectations coming to Geneva."

One sixth of Bhutan's population was forced to flee in 1991 because of the country's discriminatory policies against the southern Bhutanese who are of Nepali descent. As a percentage of a population, they form one of the largest refugee populations in the world. Yet, seven years later, the Bhutanese continue to live in camps, waiting for the time when they will be able to return to their homes.

Bhutan and Nepal had been in talks to resolve the refugee situation, but they are now deadlocked – because, says Sharma, most of UNHCR's big donors have no relations with Nepal or Bhutan. Although "the foreign policy and security of Bhutan lie in the hands of India, India does not want to irritate Bhutan" and risk losing an ally. In the meantime, the refugees continue to suffer. Save the Children recently found that there are 1,250 cases of mental problems in the camps, with many being amongst those aged 15 to 45.

The root of the refugee problem is found in the ethnic composition of Bhutan. Three ethnic groups predominate – Nepalis in the south, indigenous peoples in the east, and the ruling Ngalongs in the north and west.

The plight of the southern Bhutanese began after 1985 when the king of Bhutan, Jigme Singe Wangchuck, introduced a new citizenship act which imposed a census on Nepali Bhutanese. Only those Bhutanese who could produce a land tax receipt from 1958 or before would be considered to be Bhutanese citizens. While many southern Bhutanese had migrated to Bhutan several years before the 1958 cut-off, any extended family that had entered Bhutan after 1958 were not given citizenship.

The census was the beginning of an attempt by the northern Bhutanese to preserve their culture from the different language and religion of the southern Bhutanese, as well to gain access to the economically prosperous south where cash crops were produced.

When the southern Bhutanese appealed to the king to reconsider the policy, the situation worsened. A "one nation, one people" policy imposed the language, dress code, and customs of the northern Bhutanese on the entire population. The crackdown on the southern Bhutanese continued as the government began closing schools and hospitals in an attempt to force out those of Nepali origin.

By 1990, the government's attempt to drive out the southern Bhutanese increased. They were pressed to sell their land at a fraction of its real value and forced to sign "voluntary migration" certificates. Those who refused to sign were subjected to torture, imprisonment, and rape. Four thousand men were put in prison and one thousand women were raped, says Sharma. Citizenship was denied or revoked from those who criticized the government or its policies. Entire villages were subjected to questioning or even torture if it was found that a member of the Bangladesh People's Party (an opposition political party) had entered a village, even if the person could not be found.

Twenty houses in Sharma's village of 400 families – Lamidara in the Chirang region – were raided in December of 1991 and the heads of households arrested. The fear of harassment, imprisonment, and torture had heightened by this time and the incident prompted the entire village to flee.

The first groups of southern Bhutanese fled to India in 1991 only to be returned by the Indian security forces in Assam. Six people committed suicide to avoid being returned. After being returned by the Indian authorities, the Bhutanese began fleeing to Nepal. The Nepali government helped the refugees on humanitarian grounds, but nothing was done to work for a durable solution. The refugees continue to be aided by the Nepali government, UNHCR, and NGOs.

Approximately 150,000 Bhutanese of Nepali origin have remained in Bhutan, but are treated as second class citizens. Schools are closed, even if basic hospital facilities are now available. However, for any activity that falls under government jurisdiction – such as attending school, getting a doctor's referral for advanced medical attention in India, selling goods on the market, or for promotions – southern Bhutanese must possess a "no objection certificate." If any member of a person's extended family was ever imprisoned or participated in a demonstration against the Bhutanese government, they will be denied the certificate and, thus, the services available to other Bhutanese citizens.

At first, the eastern Bhutanese were not subjected to the same forced displacement. Now, says Sharma, they see the same trend beginning. There is no freedom of expression in Bhutan and people are not allowed to form associations or political parties. Newspapers and radio are controlled by the government and TVs are not allowed in an attempt to avoid external influences.

The refugees in the Nepali camps simply want to return to their homes, regardless of any discrimination they might face upon return. Resettlement is not even an option – no country has

approached the refugees about resettling. It would be difficult to resettle in Nepal, Sharma concedes, given the shortage of land. Return is the solution for which the refugees are hoping.

It looks as if such a solution will not come anytime soon. In fact, the situation facing the refugees could only get worse. As of January of this year, UNHCR has reduced food rations to the camps as well as the money available for non-food rations.

Ogata, the High Commissioner, said that there may be "some indications of possible progress" in the near future, and UNHCR sources say she hopes to have meetings on the Bhutanese during EXCOM. But for Sharma, the only real hope of resolving the situation seems to be through international pressure:

"The Security Council should give importance to all refugees. Not only countries that have political motives, but all countries. They have to see the human feelings. The international community should pressure Bhutan and Nepal to come to the table and come to a concrete solution."

### **Focus On: Internally Displaced**

Seventeen million people have been displaced by war and persecution, but been unable to leave their country. This leaves them dependent for protection on the authorities that often caused their flight. They do not qualify for the protection afforded to refugees under the 1951 Convention.

Over the last ten years, the international community has struggled to respond to this anomaly. Its response, all agree, has been piecemeal and inconsistent. UNHCR leads the relief effort in Kosovo, where 210,000 Kosovars have been displaced, but does not assist displaced persons in Burundi or Colombia. The main obstacle facing these agencies is national sovereignty. IDPs are considered an internal affair by governments, except when it suits them otherwise.

There are, however, signs of progress. Francis Deng, an eminent former Sudanese diplomat currently at the Brookings Institution, has placed the issue of IDPs firmly on the international agenda. Acting as the UN Secretary-General's Special Representative, Deng has visited 13 countries with IDPs, and reported to the Secretary General and the UN Human Rights Commission. Together with his Brookings colleague, Roberta Cohen, Deng has turned into an articulate and committed advocate for IDPs.

This work has culminated in the issuance of a set of guiding principles on internal displacement. These are now being adopted by the UN system and working their way down to the field level. They collected impressive support at this EXCOM from High Commissioner Ogata, and the President of the ICRC.

The challenge now is to implement these principles and use them to improve the protection of IDPs. TERESA CRAWFORD identifies some of the key question. NANCY BEAUDOUIN examines the applicability of the principles to Colombia (the first country visited by Deng).

## **Principled Approach**

by Teresa Crawford

The Deng principles serve as an important normative guide in addressing the problems of internally displaced. Some of the questions they raise:

**ARE THE PRINCIPLES A RESTATEMENT OF THE OBVIOUS?** To some extent, yes. The Deng Principles are not new law, but a compilation of existing human rights law, humanitarian law, and refugee law tailored by analogy specifically to IDPs. This was because governments did not want existing law duplicated, but rather guidelines for action.

**DO STATES NOT EXERCISE NATIONAL SOVEREIGNTY OVER IDPs?** Yes, but Deng believes that sovereignty is not a right but a responsibility, and that this includes respect for human rights. If governments abuse human rights standards, they cannot hide behind sovereignty.

**WILL THE PRINCIPLES BECOME BINDING?** Although they are voluntary, the principles have the potential to attain the force of customary law. If, however, a government does not already adhere to international law, nothing in the principles will compel them to act.

**DO IDPs HAVE A RIGHT NOT TO BE DISPLACED?** Yes. The principles recall that everyone has a right not to be arbitrarily displaced from their home. This, says Deng, should include such practices as apartheid or ethnic cleansing. It should also apply in times of war, unless civilians need to be moved for their own protection. This is especially important as contemporary warfare increasingly targets civilians to gain a strategic advantage.

**WHAT HAPPENS TO THE PRINCIPLES NOW?** First, they could be used to measure states' behavior. Second, the principles need to be operationalized, by being incorporated into the field activities of agencies such as UNHCR and UNICEF. Some feel that there should be a representative from the UN Center for Human Rights in every IDP situation, monitoring any violations and also helping the IDPs themselves to document abuses. Some might even argue that a state is found not to be adhering to the Deng principles, it should automatically trigger humanitarian intervention.

**HOW CAN ADVOCATES HELP?** In dissemination. Advocacy groups, human rights groups and aid agencies have to be aware of the principles, and reflect them in their actions and policies.

**IS ECONOMIC DISPLACEMENT COVERED BY THE PRINCIPLES?** In general no, because economic migration does not involve coercion. But people who are forced from their homes because of economic injustice and marginalization in violation of their economic rights, would qualify. Principle 6 prohibits arbitrary displacement in cases of "large-scale development projects which are not justified by compelling and overriding public interests."

**HOW SHOULD IDPs USE THE PRINCIPLES?** As a mechanism for self-empowerment. Information is protection. "The perception that IDPs are all illiterate farmers does not do justice

to the variety of their experience and their capabilities," says Mark Vincent of the Norwegian Refugee Council (NRC). If IDPs know they should be protected, and are being monitored by an international presence, they stand a better chance of forcing the authorities to assume their responsibilities. Overall, we need to know much more about the strengths of IDP communities, and the way that they maintain their cohesion even in the middle of crisis. This is what makes them resilient, and able to survive. (John Bennett, who has directed the Global IDP Survey for the NRC and is a researcher at the Refugee Studies Program at Oxford, has done some pioneering work on this aspect.)

**CAN DENG BE MORE THAN A MONITOR?** Yes, he could even broker negotiations if all sides in a conflict really saw the peace-making potential in his principles, and if Deng himself maintains his credibility.

**HOW CAN DENG'S CREDIBILITY BE ENHANCED?** His mandate has been extended until the year 2001. But he lacks a staff and budget.

- Who should be contacted for more information? The Brookings Institution has formed a consortium with the US Committee for Refugees and Norwegian Refugee Council.

## **Colombian Nightmare**

Colombia was the first country visited by Francis Deng, in 1994. Today it has the largest caseload of IDPs in the Americas. A recent study by the Washington-based US Committee for Refugees found that one in forty Colombians had fled their homes. How do the Deng principles apply to Colombia, and can they help in mitigating this crisis? Do they apply to economic displacement? NANCY BEAUDOIN put this to two Colombian human rights specialists: CARLOS-ANDRES PEREZ, a former mayor and member of the democratic opposition who left Colombia after being tortured and detained in prison for a year; and MARIA ELENA RODRIGUEZ, a regional focal point for Latin America in UNHCR's PAREnAC.

**The humanitarian situation.** Over 1.2 million people have been displaced in Colombia since 1985, 40% of them in the last three years. Most of these are poor peasants. 75% are under 18 and 55% women. There are no "reception systems" in place for these people and no systematic distribution of assistance such as food and clothing. This has caused malnutrition and disease. IDPs settle into whatever accommodation they can find when they arrive in host communities, varying from gymnasium floors to the most basic shacks. Often they arrive in overcrowded urban barrios (slums) which generally lack water, food, electricity, and clothing. In the city of Medellin, 15,000 IDPs are now living in 14 different barrios, many in carton shacks.

**The humanitarian response.** According to Deng's Principles, responsibility for protection of IDPs rests first and foremost with the government. But, so far, the Colombian government's response has been inadequate. It was not until 1992 that the government acknowledged the existence of large internal displacement. At most 5% of the IDPs receive a "displacement certificate," giving them access to shelter for three days and \$70 per family.



Rodriguez states that Colombian NGOs have very limited financial means, and that this restricts their ability to lobby with the government, investigate the disappearance of IDPs, and develop training programs. Her own national organization comprises 12 local groups, so as to "...have more weight" when negotiating for IDP protection issues.

The ICRC has over 50 delegates across Colombia, who disseminate information on human rights issues, conduct prison visits, and assist civilians in leaving conflict areas. Roughly 12 international NGOs provide basic humanitarian relief assistance, mostly food, health and basic relief items. Rodriguez believes that international humanitarian aid should also focus on long-term sustainability projects. UNHCR has been progressively scaling down its activities in the Americas as the number of refugees has fallen, and UNHCR's own budget has shrunk. But local NGOs believe that UNHCR should extend its mandate to include IDP protection in Colombia. The Colombian government initially requested a UNHCR office in-country, but then decided against it, afraid that it would focus too much attention on the IDP issue. A compromise was reached and UNHCR operates a one-man office in Bogota.

The causes of displacement – pressure from all sides. Using Deng's definition of IDPs, displacement in Colombia can be traced to "armed conflict" and "situations of generalized violence" caused by a complex internal conflict between government forces, paramilitary, guerrillas, and narco-traffickers. The strategy of these armed groups is not to directly confront each other, but rather target the civilian communities of the other groups.

Economic Displacement. Colombia underscores the relevance of Deng's careful attempt to distinguish between economic displacement caused by coercion and by poverty/migration.

Carlos-Andres Perez believes that Principle 21.1 ("no one shall be arbitrarily deprived of property and possessions") is very relevant to Colombia. However, he suggests that the following should have been added "...or be forced to sell their land at low market value through third party pressure." Many IDPs left after being pressured by powerful landowners to sell their land and at much lower value than the usual market price. Through this strategy the IDPs have become dispossessed of their land – but in a way which is seemingly legal. This makes it hard for them to reclaim their property. In Colombia most of the land is owned by 3% of the population. In one municipality – Uraba – 60,000 hectares of the total 65,000 hectares has been progressively purchased from poor peasants.

Some international NGOs working in Colombia have noted a related phenomenon – displacement by multinational corporations. Acting at the behest of multinationals, they say, paramilitary groups will enter villages in a choice area, carry out selected murders, and chase the villagers out. This will be used as pretext by the military to clean the entire area, at which point businesses descend and buy up land at bargain prices. One 1995 survey found that the areas where populations had been uprooted coincided with petrol exploration sites; road construction, hydraulic plants and natural resources. In short, "economic gain" accounts for a large number of displacements in Colombia, but Perez does not see this reflected in Deng's definition of an IDP.

Protection: The government has not provided any means for the protection of IDPs – for example in the form of an official presence where IDPs are relocated – although the government is

primarily responsible for the security of IDPs under Deng's Guiding Principles. Nor has the government really developed national laws for the protection of IDPs, as demanded by the principles.

Resettlement: Given the extent of economic displacement, one of the best principles for securing the return of IDPs to their homes would seem to lie in 29.2 (the recovery of property or provision of appropriate compensation). Any solution would have to address the case of those IDPs forced to sell their land and property.

However, at this stage both Rodriguez and Perez believe there are too many examples of failed returns to seriously consider resettlement in the near future. Early this year, IDPs originally from the Choco region returned to their place of origin after walking for one month from Pavarando village where they had been displaced since 1997. They decided to return because living conditions in the village of displacement were so harsh: 5,000 IDPs had been grouped into a village of 500 inhabitants. They were living in plastic shacks with temperatures rising over 35 degrees C. The IDPs secured the written agreement of the authorities that the State would assist in rebuilding the infrastructure (schools, hospitals). However so far these returnees have only received 5% of the promised assistance in the form of tools and a few basic commodities.