W e are all working towards the same goal,” is a phrase often put to NGOs by governments and UNHCR officials. But, increasingly, it seems that there is a difference in the interpretation of what exactly is meant by that goal. For NGOs, there is a sense that the goal of the improved protection of refugees and asylum-seekers is being undermined by some of the actions of their governments.

While the whole process of the Global Consultations was meant to improve refugee protection, the actions at home of some of the governments that negotiated the Agenda for Protection beg the question as to what is the real commitment of those governments to the Agenda? (see related article in this issue of Talk Back, Issue of the Month). Has there actually been an improvement in the protection of refugees and asylum-seekers?

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S EXUAL EXPLOITATION: SADLY, IT’S NOT OVER

F ollowing the media publicity surrounding the UNHCR/Save the Children-UK study on sexual exploitation in West Africa, there was a flurry of meetings and working groups convened to address the issue of sexual exploitation by humanitarian workers. Over the last few months, that level of activity seems to have decreased. But what has justified the dwindling focus on the issue? The immediate reaction by everyone to bold a meeting was probably not the most original way to respond to the report, but letting the matter slowly (or quickly) fall off the agenda is also not the best way to address a problem that, sadly, persists.

Many have been awaiting the report of the UN investigation by its Office of Internal Oversight Services (OIOS). While the draft is now ready, it is being kept top secret and there is no official date for its release. There are, and have been for sometime now,
EDITORIAL

HIGH HOPES FOR THE NEW HIGH COMMISSIONER

The post of High Commissioner for Human Rights (HCHR) is probably one of the most difficult United Nations' heads of agency posts in existence. There is a need in this post to be able to strike a balance between the public denunciation of governments and non-state actors who violate human rights and the more discreet, bilateral discussions required with those actors. This balance is made all the more difficult by the fact that too vocal a High Commissioner will not find favour with the governments that control his office and who can quickly move to depose an overly outspoken critic.

That balance will be particularly important vis-à-vis the impression the new High Commissioner, Sergio Vieira de Mello, will make with NGOs. The HCHR has already asked, in a recent press conference in Geneva, that his methods not be the basis of judgement: "Judge me on the basis of results, not on style."

But while human rights NGOs have often had the ear of the HCHR — not only at the headquarters level, but also on the ground — the case is much more different with humanitarian NGOs. However, there are some first signs that the new HCHR is open to turning to this new constituency in order to help him define his mandate in protection.

Often, it is humanitarian NGOs working directly with populations in crisis that have the most (and most important) information about human rights abuses and violations. In many instances, humanitarian NGOs are at a loss as to where to turn with such information.

Yet in many (if not all) humanitarian operations, there is an urgent need for human rights monitors on the ground. The obvious UN agency to which to turn for that gap to be filled is OHCHR. In the past, however, there has been a marked reluctance to enter into the realm of human rights work in humanitarian operations on the part of the High Commissioner’s Office.

But human rights organisations must understand that many humanitarian NGOs are increasingly realising that their humanitarian work has human rights at its base and that humanitarian workers have a role and responsibility to ensure the protection of the rights of those whom they serve.

This realisation has partly been supported by OHCHR with the co-hosting (with ICVA) of a workshop on human rights training for humanitarian workers (November 2001). That first step of cooperation between OHCHR and humanitarian NGOs should now be capitalised on by the new High Commissioner and moved outside of the Geneva meetings rooms onto the ground. It is at the field level that the cooperation and support of the High Commissioner’s Office is most needed, and called for, by humanitarian NGOs, particularly when it comes to the protection of internally displaced persons (IDPs), given the often seen gap in IDP protection.

Such support from OHCHR does not necessarily mean setting up field offices in every humanitarian crisis. Instead, the High Commissioner’s Office could work with existing UN Country Teams, and particularly the Resident Coordinators and Humanitarian Coordinators (RC/HCs), to ensure that human rights are made integral to the humanitarian response. Too often, human rights are not seen as part of the overall responsibility of RC/HCs in ensuring a coordinated humanitarian response. Bringing protection into the work of humanitarian agencies falls partly on the shoulders of the High Commissioner’s Office.

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IN THE NEWS

WHEN IDPs ARE IN
THE HANDS OF A WORLD POWER

While the severe pressures on Chechens who have become internally displaced in the Russian Federation to return eased somewhat recently, they remain a pawn in the hands of the Russian authorities. The means of the international community to actually improve the human rights situation and living conditions of the Chechen internally displaced persons (IDPs) are extremely limited. A mission of the Representative of the Secretary General (RSG) on IDPs, Francis Deng, to the North Caucasus region, which was planned to start on 30 September, after an initial postponement of almost a month, has again been cancelled by the Russians at the last minute for reasons of security.

The mission, together with the UN Rapporteur on Violence against Women, Radhika Coomaraswamy, was seen as a significant opportunity to raise the plight of Chechen IDPs with the Russian authorities.

In August, four French agencies urged that "no fight against terrorism could justify the blatant violations of human rights," as carried out by the Russian security forces: a call that is likely to go unheeded, unfortunately.

Reportedly, the Chechen and Ingush authorities signed a Plan of Action at the end of May for the "voluntary repatriation" of the 150,000 Chechen IDPs living in Ingushetia. However, according to a report of ICVA member Médecins du Monde (MDM; Doctors of the World), the plan turned out to be anything but voluntary. Levels of assistance in the IDP camps in Ingushetia were reduced and attempts by aid agencies to improve the living conditions, with efforts as basic as tent repairs, were refused by the camp administration.

A high level body of Executive Heads of UN humanitarian agencies recently decided to increase advocacy efforts with the Russian authorities. But the question should actually be asked, what efforts are being undertaken by the UN to improve the protection of Chechen IDPs?

Deng's mission, which has now been postponed until further notice, would have been essential to complement (if not compensate for) the protection efforts of the UN agencies active in the North Caucasus.

"no fight against terrorism could justify the blatant violations of human rights," as carried out by the Russian security forces...

At a seminar on the situation of IDPs in the Russian Federation that took place in Moscow at the end of April, the head of the OCHA office in Moscow, Toby Lanzer, pointed out that the figures reveal that never before have so many humanitarian actors been able to reach so many recipients. Apparently, the senior OCHA official feels that such a positive picture might have a greater impact on the negotiations on access and security for humanitarian agencies than actually raising the difficult issue of the human rights abuses of IDPs by the Russian forces.

Also in August, a senior official of UNHCR did not oppose the fact that IDPs would be returned to Chechnya. In fact, the deputy regional UNHCR representative called for the Russian authorities to let them know how many IDPs would be relocated so that his agency could prepare.

If the UN agencies want to become more active in advocating for the protection of IDPs, it is essential that they push the authorities to register IDPs. Registration stopped in March 2001 as part of the effort of the Russian authorities to portray Chechnya as a stable and secure part of their territory. Registration is key in order to be recognised as a person in need of assistance.
EDITORIAL
High Hopes for the New High Commissioner

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One of the practical difficulties seen on the ground in engaging with humanitarian organisations is that human rights operations are often placed within the political arm of the UN. That placement can often be a hindrance to adequately engaging with humanitarian organisations, as humanitarians need to keep their distance from the political side in order to maintain their independence.

By getting the human rights side associated with humanitarian operations on the ground, there would undoubtedly be a greater interaction between the human rights and humanitarian sides. But there are other ways of improving the link between human rights and humanitarian action.

The Representative of the UN Secretary-General on IDPs, Francis Deng, is a prime example of someone who has linked the human rights and humanitarian sides. While supported by OHCHR, the RSG has built up a rapport with human rights NGOs and humanitarian NGOs, to a point where humanitarian NGOs actively try to share their concerns with the RSG prior to his missions. By creating an environment in which humanitarian NGOs see the benefit of engaging with the human rights side, improvements are made in the protection and assistance of IDPs.

While Deng’s mandate also benefits from external support through the Brookings-SAIS Project on Internal Displacement, the new High Commissioner should perhaps use that mandate as a model for ensuring that the country and thematic rapporteurs engage practically in a similar manner with humanitarian NGOs. The High Commissioner has a proven track record of working closely with humanitarian NGOs. Making links between the human rights and humanitarian sides is a two-way street: it is up to the new High Commissioner to ensure that the road is cleared to allow for such movement.

Ed Schenkengen van Mierop and Manisha Thomas

IN THE NEWS
When IDPs are in the Hands of a World Power

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The recognition of IDP status is a complicated issue in the Russian Federation since there is only a reference to ‘forced migrant’ in Russian national law. At the Moscow seminar, which was co-sponsored by the Russian Institute of State and Law, the NGO ‘Partnership on Migration’, and the Brookings Institution-CUNY Project on Internal Displacement, many participants called for the reform of the law on forced migrants, so that it would include specific reference to the needs of IDPs. The mission of the RSG on IDPs, which had been carefully planned also through the Moscow seminar, would have been important in convincing the Russians to ensure that their laws would be based on the Guiding Principles on Internal Displacement.

At present, all humanitarian agencies working in the North Caucasus remain extremely vigilant of the security situation for aid workers. Earlier this month, the UN resumed operations, after a six-week suspension that was announced to protest the kidnapping of the head of a Russian NGO who worked with UNICEF. Her whereabouts, as well as those of a Dutch national working with Médecins sans Frontières (MSF), who was kidnapped on 12 August in Dagestan, remain unknown.

In the recent Inter-Agency Standing Committee Working Group, OCHA has indicated that it is making little headway with the government on security issues, particularly around VHF radios and the hiring of armed escorts and security guards. The Russian authorities do not want humanitarian agencies on the ground. By using security as an excuse, the authorities are, once again, hampering the work of humanitarian agencies in their efforts to protect and assist Chechen IDPs. ♦
IN THE NEWS

HOW ACTIVE AND RELIABLE IS UNHCR
IN THE RESPONSE TO IDPs?

By Roberta Cohen

Over the past 10 years international attention to situations of internal displacement has grown considerably. People uprooted, starving, and under assault in their own countries are no longer viewed strictly as a national problem. International humanitarian action in human rights and humanitarian emergencies has increasingly been extending to both refugees and internally displaced persons (IDPs).

The UN Secretary-General, his Representative on IDPs Francis Deng, the Emergency Relief Coordinator Kenzo Oshima, and other senior UN officials are speaking out vocal in support of IDPs in Chechnya, Afghanistan, the Sudan, India, and other countries. Donor governments are also earmarking funds for IDPs.

After many years of debate and controversy, the UN has decided upon inter-agency collaboration as the preferred institutional approach for dealing with IDPs. To reinforce this, the Secretary-General last year approved the creation of a special unit on IDPs within OCHA to better coordinate the UN response.

But the IDP Unit is small: 9 professionals. To produce results on the ground, it will need to rely on the larger, operational agencies with the staff and resources to carry out the programmes. Foremost among these agencies is UNHCR because of its long experience with uprooted populations, particularly with their protection. Indeed, without UNHCR’s active engagement on behalf of IDPs worldwide, the inter-agency process on behalf of IDPs will be the weaker and IDPs will be the poorer.

But how active and reliable a player is UNHCR in this inter-agency process for IDPs? Frankly, it is hard to know. Some UNHCR officials in Washington on a visit publicly asserted that IDPs are not part of their mandate. Others point out that UNHCR does not have the resources to extend very much help to IDPs. Still others express concern that involvement with IDPs will undercut UNHCR’s primary role of defending the right to asylum.

By contrast, there are staff members quite sympathetic to dealing with internally displaced persons and who emphasise that IDPs and refugee populations are so closely related in different situations that UNHCR must become involved. They also point out that today’s wars are mainly civil conflicts in which IDPs often outnumber refugees two-to-one. To be relevant to these emergencies, UNHCR must become involved with both refugees and IDPs and they point to very effective UNHCR programmes with IDPs in Sri Lanka, Colombia, and the Balkans.

The pendulum swings back and forth. Influencing the backward swing are serious resource constraints and also the opposition of other agencies to UNHCR’s taking on major responsibilities for IDPs and becoming too powerful an agency. Even the mention of UNHCR’s doing much more can trigger turf wars.

But the well-being of IDPs is at stake. And right now, that pendulum may just be beginning to swing in favour of greater involvement by UNHCR.

If that were the case, what would it be constructive for UNHCR to do? Five steps would be suggested:

First, UNHCR should make known in a positive, proactive spirit that it is willing to become more involved in situations of internal displacement because many refugee and IDP situations are closely related. To date the message has been somewhat negative. UNHCR criteria have often been presented more as an obstacle than as a guide. In making known a greater willingness to become involved, UNHCR could point out that humanitarian emergencies affect both refugees and IDPs and that UNHCR has skills to bring to bear that can benefit both groups. A proactive message would also be one that indicates that UNHCR will make an effort to try to raise the funds for IDP situations based on the merits of the case. As one refugee expert commented, “Right now UNHCR wants IDPs handed to them on a platter, with cash.”

Hopefully, High Commissioner Lubbers’ recent letter and discussions with Under Secretary-General Oshima on the issue of UNHCR’s current involvement with IDPs (which left the door ajar for involvement in further situations) will be a step in the direction of greater clarity and involvement.

see over
Second, UNHCR should apply its criteria for involvement with IDPs more consistently. Right now, it is very hard to know whether UNHCR will become involved in an IDP situation or not. All of its criteria may be met, yet UNHCR may still not become involved. This lack of predictability has led to much confusion about UNHCR’s role. At a conference in Indonesia in 2001, participants questioned why UNHCR was not involved with the more than one million IDPs in the country. After hearing UNHCR’s criteria for involvement, it was still not clear why the organisation was not involved. To its credit, UNHCR did ask to be involved with IDPs in Afghanistan. But in Angola, where there are more than 4 million IDPs, and which staff members describe as a textbook case for UNHCR’s involvement, the organisation has pulled back from a very valuable protection programme and has not been proactive about raising funds for the continuation of the programme. The entire inter-agency effort for IDP protection would work better if it were clearer when UNHCR would become involved and stay involved.

Third, far greater attention should be paid to IDPs in Africa. More than half the world’s IDPs can be found in Africa, yet the continent most ravaged by conflict and displacement. Yet UNHCR’s role with IDPs is quite limited on this continent. Only 1.1 million are of concern to the agency out of more than 13 million IDPs in Africa. Basically, UNHCR remains uninvolved in any significant way with internally displaced persons in Angola, Burundi, the Democratic Republic of the Congo, or the Sudan, and in Liberia and Sierra Leone, the involvement is limited. The Inter-Agency Network on Internal Displacement specifically recommended that UNHCR become more engaged in protection activities in Burundi and other African countries. Rather than risk becoming irrelevant to internal displacement on the continent, UNHCR should be actively exploring how to intensify its role in Africa.

Fourth, UNHCR should pay greater attention to the reintegration of returning refugees so they do not become IDPs. When refugees return to unsustainable and unsafe conditions, they frequently become internally displaced. That is what is taking place in Afghanistan and Sierra Leone. Indeed, UNHCR might help mitigate situations of internal displacement by helping returning refugees to re-integrate more safely and effectively in their home communities. Unfortunately, the famous ‘refugee development gap’ remains alive and well and is helping to increase the number of IDPs. At the same time, greater attention should be paid to assuring more equality of treatment between returning refugees and IDPs. In Afghanistan, as well as in West Africa, seeds, tools, and other equipment are provided to returning refugees, but not always to returning IDPs, creating tensions and conflicts.

Fifth, UNHCR should develop collaborative arrangements with agencies engaged in human rights to increase protection for IDPs. In particular, it should develop a stronger collaboration with the Office of the UN High Commissioner for Human Rights (OHCHR). It is worth recalling that in the case of Rwanda in the mid-1990s, UNHCR and OHCHR did work together to increase security for IDPs and refugees in the communes to which both groups were returning. Such joint arrangements could be developed in other countries as well. OHCHR has field staff in more than 30 countries and could be encouraged to become more involved in IDP protection activities on the ground, as well as to advocate more energetically for greater government accountability. There certainly is opportunity now that Sergio Vieira de Mello has become High Commissioner. As Under Secretary-General for Humanitarian Affairs, in 1998, de Mello embraced the Guiding Principles on Internal Displacement, and encouraged the Inter-Agency Standing Committee to endorse them. He understands better than most the protection needs of IDPs and the links that should be made in the field between human rights and humanitarian responsibilities.

In this day and age, UNHCR cannot be just a refugee agency. Emergencies demand more comprehensive approaches. The organisation has a great contribution to make to worldwide efforts to help IDPs.

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Why Do NGOs Bother with EXCOM?

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Are the commitments made at the Ministerial Conference last December to the 1951 Refugee Convention still valid?

NGOs should rightly bring such questions to the public domain. And that public domain should not be restricted to the national or regional environments in which they work. NGOs are increasingly realising the value of bringing their views, which are reflective of their work with refugees and asylum-seekers, to the international level when discussions are taking place on matters of refugee policy.

This year, large numbers of NGOs are making their way to Geneva in order to take advantage of the opportunity of UNHCR’s Executive Committee (EXCOM) meeting to lobby their own governments, other governments, and UNHCR. NGOs, from as far away as Australia, want to let others know that the policies of their governments are not acceptable to all citizens.

We should not be talking at each other, but with each other if we are to improve refugee protection.

Such dialogue, however, needs to be extended to all parts of the EXCOM proper, including the negotiations process of the main EXCOM product: the Conclusions, where NGO participation is currently non-existent. Parallels can be drawn with the Global Consultations and the Annual Tripartite Consultations on Resettlement as opportunities for three-way dialogue. Now the challenge is to translate those models of participation into the regular meetings of EXCOM and its Standing Committee.

Representation Does Not Mean Increased Participation

There are an increasing number of governments that “have’ NGOs on their delegations to EXCOM. Participation on government delegations, however, should not be seen as a substitute for increasing the participation of NGOs in EXCOM. By sitting on a government delegation, an NGO representative can bring certain expertise and a particular perspective to a government delegation, but that person does not represent all the views of all NGOs.

Participation [by NGOs] on government delegations...should not be seen as a substitute for increasing the participation of NGOs in EXCOM.

There will always be a difference in interpretation of that person’s role on the delegation. Governments will often see the person as bringing the NGO perspective to the negotiations and discussions. NGOs that feel
comfortable with taking on such a role will see it as another way of influencing government policy: they will see it as an acceptable mode of action. There are other NGOs that feel that participation by an NGO representative on a government delegation can lead to a blurring in the role of NGOs.

NGOs Are Not All the Same

This difference of opinion on sitting on government delegations leads to a point that is often overlooked, or not realised, by governments or UNHCR: there is no one NGO perspective or view. NGOs are not a homogenous grouping to be asked for their collective opinion. Every NGO has its own mandate, its own mission, and its own ways of working and approaches that it will take. While several NGOs will have similar modes of action, there are NGOs that will be opposed to the methods of other NGOs. The question of participation on government delegations is a prime example. As such, without increased participation in EXCOM, governments and UNHCR will always only hear a particular perspective from NGOs through the single NGO statement that they are granted.

Even of the more than 150 NGOs attending Pre-EXCOM and EXCOM, it has to be kept in mind that they will all have their own reasons for attending. Some NGOs want to raise international awareness about the situation of asylum-seekers in their country; others want to raise particular issues with UNHCR; others want to lobby various governments; and others want to share experiences with other NGOs that are working on the same issues — and that list of reasons is nowhere near exhaustive.

Taking Advantage of the Opportunity

Positively, there is a significant group of NGOs coming to EXCOM that want to use the forum as an opportunity for advocacy and lobbying. That advocacy and lobbying will also come in various forms: some NGOs will be very public about their concerns, while others will take advantage of more informal discussions in the hallways or over coffee to get their points across. The realisation that EXCOM and Pre-EXCOM can serve as such forums is a welcome one and one that can only be built upon in future years.

When NGOs publicly raise their concerns about certain processes and/or the actions of their governments or UNHCR, there should not be the automatic defensive response that is seen all too often from the criticised party. The fact that the voices of refugees and asylum-seekers are essentially absent from the halls of the United Nations means that NGOs have the responsibility to speak on behalf of those for whom they work in forums such as EXCOM.

The fact that the voices of refugees and asylum-seekers are essentially absent from the halls of the United Nations means that NGOs have the responsibility to speak on behalf of those for whom they work in forums such as EXCOM. And, sometimes, that means having to publicly criticise governments and UNHCR. If NGOs did not raise concerns on behalf of refugees and asylum-seekers, who would?
rumours that the OIOS investigation has not been able to uncover the pattern of sexual exploitation referred to in the original report. But even if the investigation was able to uncover only one case of sexual exploitation by a humanitarian worker, that is one case too many. Whatever the conclusions of the OIOS investigation, a reduced vigilance on the part of humanitarian agencies is not justified.

Sadly, the children in West Africa who were at the centre of the original report are not the only ones who have been victims. Since the West Africa report came out in February, there have been other cases of sexual exploitation by humanitarian workers uncovered in other humanitarian operations (Zimbabwe, Kenya). While action was taken against the perpetrators, these cases only confirm what has been known by many all along: sexual exploitation occurs in too many humanitarian operations.

There have been many efforts over the last several months to develop codes of conduct, common elements of codes of conduct, and zero tolerance policies. Now that many of these documents have been created, thanks to much hard work, it is not the time to rest on our laurels. The real challenge still remains: ensuring that those codes of conduct are adhered to by humanitarian workers and that the zero tolerance mantra that is being preached gets translated into action. Otherwise all these efforts will be mere rhetoric, with little basis in reality.

Giving Life to Codes of Conduct

The work of the Inter-Agency Standing Committee (IASC) Task Force on Sexual Exploitation in coming up with core elements of a code of conduct provides the very basics of what should be contained in a code of conduct. But once those elements are combined with others to create a code that reflects the mandate and mission of an organisation, the real work begins. Having staff sign a code will not necessarily result in a change in culture (see “Power and Privilege,” Talk Back 4-1). Codes have to be the basis of an organisational culture that does not tolerate sexual exploitation, abuse, or inappropriate behaviour.

Tackling the Tough Questions

One issue which has still not been resolved within the humanitarian community is the question of relationships with beneficiaries over the age of 18. The IASC Task Force’s common elements for a code of conduct explicitly states that “sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally.”

Relationships between humanitarian workers and beneficiaries are equivalent to a doctor having a relationship with a patient; a lawyer having a relationship with a client; an employer having a relationship with an employee; or a professor having a relationship with a student; all inherently involve power imbalances in favour of the former. While High Commissioner Lubbers has rightly noted this similarity, the UNHCR staff code of conduct (as is the case with many other organisations’ codes of conduct) does not require staff to refrain from relationships with beneficiaries. In fact, the Code, under Principle 7, states: “...Should I find myself in such a relationship with a beneficiary that I consider non-exploitative and consensual, I will report this to my supervisor for appropriate guidance in the knowledge that this matter will be treated with due discretion...”
Continued from previous page

While the guidance notes to the UNHCR Code note that such relationships "could be perceived by others in the humanitarian community and the public as an abuse of power and trust, or as a conflict of interest," the Code has not taken that next logical step: to disallow relationships between humanitarian workers and beneficiaries. It is a point that has been contentious for years. But why do humanitarian workers feel they are in a class of their own? What prevents humanitarian workers from adhering to the same standards that others in positions of power have agreed to?

Zero Tolerance: What does it Really Mean?

The issue of zero tolerance is one that also requires further efforts on the part of humanitarian agencies. What exactly is meant by zero tolerance? If a humanitarian worker is alleged to be engaging in sexual exploitation, what action will be taken? Will s/he be simply fired from their position or will the incident be reported to local authorities and/or, as is now possible in some countries, with the authorities of an expatriate's country? Will legal proceedings be put into motion? If the local laws are not adequate to prosecute sexual exploitation, what efforts will be made to ensure that the allegations are proven? And, if the person is proven to be guilty, what efforts will be undertaken to ensure that the person does not end up working for another humanitarian organisation? There have been numerous cases where people suspected of sexual abuse and/or exploitation have simply been fired, only to turn up in another organisation within months. How will the humanitarian community put a stop to such cycles?

Changing Cultures

While we expect that sexual exploitation can be stopped overnight within humanitarian organisations is unrealistic, there is still a need to ensure that there is a change in the culture of humanitarian organisations. The plan of action and report of the IASC Task Force on Sexual Exploitation [available on the ICVA website: www.icva.ch] is one step towards such a change in culture and many other efforts taken in recent months are also steps in that direction. But, there are still many difficult issues that need to be addressed before an end can be put to sexual exploitation and abuse.

Effective complaints' mechanisms are central to changing organisational cultures. Until it is safe and acceptable for staff and refugees to raise concerns and he assured that appropriate action is taken, little will change. Organisations wishing to sincerely tackle sexual exploitation and abuse will have to take measures to ensure that persons lodging such concerns are not penalised, as now it is often the complainants, rather than the perpetrators, who are disbelieved, who are criticised, and/or who risk losing their livelihoods.

An issue often glazed over is the fact that the original report highlighted sexual exploitation not only by humanitarian workers, but also by peacekeepers and various others in positions of power within communities. The question also remains as to what measures states are taking to ensure that their peacekeepers are also committed to ensuring that an end is put to sexual exploitation and that those that are guilty of such behaviour are appropriately prosecuted.

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ISSUE OF THE MONTH: PROTECTION
DEMYSTIFYING PROTECTION

Humanitarian workers often regard protection as the most complicated and controversial part of their work, if they are even aware that it is part of their work. Compared to the activity of providing assistance, the concept of protection is rather abstract. Confusion over the definition of protection prevails among aid workers. There are those agencies, such as the ICRC, which have always maintained that protection is an integral component of humanitarian action: the other side of the same coin. Others view protection as a relatively new add-on humanitarian activity. And a third line of thinking suggests that by using the rhetoric of making relief work rights-based, it includes the concept of protection.

Historically speaking, many humanitarian agencies faced huge protection dilemmas in the aftermath of the Rwandan genocide in the mid-nineties. The classic problem of providing assistance to war criminals or 'genocidaires' who found themselves among the hundreds of thousands of refugees in camps in Eastern Zaire and Tanzania would not have emerged if UNHCR and states had implemented the Refugee Convention and had separated (and prosecuted) these people from genuine refugees. In 1996, the then Director of UNHCR's Department of International Protection (DIP), Dennis McNamara, spoke of a "crisis in protection."

It is interesting to note that during the same time, the emphasis in the debate on improving the quality of aid has focussed on technical guidance in assistance sectors (food, water & sanitation, healthcare, and shelter), and much less on protection. Gerry Martone of the International Rescue Committee recently spoke of how humanitarian action has been compartmentalised and that there is now a need to move beyond this compartmentalisation to make human rights monitoring a central element of relief assistance interventions across all sectors.

A significant inter-agency dialogue addressing protection, which took place in the second half of the 1990s, was a series of seminars organised and hosted by the ICRC to discuss how to best protect the civilian population in war situations. Some four years later, the process produced a definition of protection and helped participating NGOs to conceptualise and (hopefully) institutionalise protection-related activities in their work. The synthesis report Strengthening Protection in War is one of the best publications on protection that exists in the sector [available from ICRC].

In 1999, UNHCR organised a protection-focused dialogue with NGOs, called Reach Out. Human rights and humanitarian NGOs were both invited to elaborate a common protection agenda with UNHCR, as the agency felt the need to reinvigorate support for its protection mandate. Unlike the ICRC process, Reach Out did not contribute much in terms of clarifying protection concepts or mutual responsibilities in refugee protection. The most concrete product to result from UNHCR-NGO collaboration, which in fact did not come out of Reach Out but out of the Partnership in Action (PARinAC) process, was the Field Guide for NGOs in Refugee Protection.

Perhaps, one weak element of both processes has been the fact that few of the results have made it all the way to the field level. Field workers often remain at a loss as to what is expected from them. Many of them have asked for practical tools and guidance in incorporating human rights into their work. Often they maintain the basic view that integrating human rights and/or protection-related activities automatically means the same thing...
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The issue of producing guidelines on protection has been the topic of heated debates in various humanitarian forms, including the Sphere Project (Humanitarian Charter and Minimum Standards in Disaster Response). Strong feelings exist within agencies, such as ICRC and MSF, that protection cannot, and should not, be standardised. How could it? In view of the fact that every agency based on its mandate, or mission statement, values humanitarian principles differently, they provide different responses to protection challenges and dilemmas.

How to go about addressing a serious protection concern, such as the forced repatriation of refugees, of which there are plenty of examples in the last ten years? Some agencies would help mitigate the forced character of the return process by setting up camps for returnees, providing transport facilities, and/or accompanying the refugees. Others would pull out in protest of the violation of refugees' rights. Hence, it would be impossible to develop guidelines that tell agencies what to do in these cases. Differences in valuing humanitarian principles will be the basis for different modes of action. There is probably not an objective right or wrong answer.

Recently, however, UNHCR launched a first attempt to develop ‘benchmarks and indicators’ in refugee protection. This 35-page document produced by its Department of International Protection (DIP), tries to respond to the need of staff of all disciplines, not only protection officers, for more practical tools in carrying out protection-related activities in all stages of the refugee experience. UNHCR is sharing the document now and asking NGOs for feedback.

An obvious example of where the two worlds of lawyers (short-hand for human rights experts) and engineers (short-hand for all operational staff) also need to do more work together is the Sphere handbook (Humanitarian Charter and Minimum Standards in Humanitarian Response). Whereas the handbook is primarily an assistance tool, the link between the (legal) Humanitarian Charter and the (practical) five sectoral chapters needs to be reinforced. The legal basis for the minimum standards in health, nutrition, food aid, water and sanitation, and shelter can be found in human rights, humanitarian law, and refugee law (and the Guiding Principles on Internal Displacement), but this needs further elaboration than what is currently in the handbook. The Sphere standards, at the same time, could perhaps be key in helping the thematic human rights rapporteurs (for example, the Rapporteur on the Right to Food) in defining minimum levels of assistance, which

**Humanitarian staff...should make use of human rights, in order to work towards the protection of those they try to assist.**

A collaborative exercise involving lawyers and engineers would hopefully lead to a better understanding from both sides on how to ‘operationalise’ protection. Human rights do not jeopardise humanitarian work; they underpin it. Humanitarian staff, therefore, should make use of human rights, in order to work towards the protection of those they try to assist. ♦
ISSUE OF THE MONTH: PROTECTION

IMPLEMENTING THE AGENDA FOR PROTECTION: HYPOCRISY OR SINCERE EFFORT?

This year's session of UNHCR's Executive Committee (EXCOM) will agree on the Agenda for Protection, thereby bringing the Global Consultations on International Protection officially to a close. The Agenda is the primary instrument for achieving the objective that UNHCR had set itself in undertaking the Global Consultations process, reinvigorating the international protection regime. The question now is: has this goal really been achieved?

Two years ago, when UNHCR launched this process in order to commemorate the 50th anniversary of the Refugee Convention, the Convention was under serious threat as a number of ministers and parliamentarians from Western countries had called for the "modernisation of the Refugee Convention"—a euphemism for their strong desire to ease their obligations under the refugee protection instrument. In a statement to a European Union meeting in Copenhagen on Friday 13 September, High Commissioner Lubbers pointed to the unanimous reaffirmation of the Refugee Convention through the adoption of the Declaration at the Ministerial Conference in December 2001, which was part of the Global Consultations.

The High Commissioner probably knows better. His agency has extremely limited powers incountering the negative trends in refugee protection seen before, during (and after?) the Global Consultations. Refugees and asylum-seekers have become political issue number one in many countries, particularly in donor governments' home societies. Several of these governments are still more than happy to push the red button on the Convention and call for a new global instrument to "manage migration."

It is, therefore, quite likely that the Global Consultations actually did little to enhance protection for refugees. A recent ICVA review, which looked at the role of NGOs in the Global Consultations, found that many NGOs feel that the jury is still out on the question of whether the extensive participation of NGOs was worth the effort or not. The majority feeling among NGOs regarding the whole Global Consultations process is that the proof will only be seen in how much of a difference the process will make in the lives of refugees and asylum-seekers.

At the upcoming EXCOM, member states are likely to start a debate on prioritisation of the six objectives set forth in the Agenda. They will argue that they have limited means and resources to undertake all the activities that are part of the Agenda, which is basically a list reaffirming (many obvious) actions to respond to current protection challenges. Rightly so, UNHCR's Department of International Protection (DIP), which led the Global Consultations, has resisted prioritising the different actions mentioned in the Agenda. Refugee protection, in general, requires an integrated approach and comprehensive action, not a 'cut and paste' type of response that can then more easily fit governments' policies.

The 'Friday the 13th statement' of the High Commissioner, however, risks focusing on an element that was likely to receive more than enough attention from governments in their follow-up to the Agenda anyway: keeping refugees in their "region of origin." Lubbers introduced the concept of the "Convention Plus." Without being too specific, the High Commissioner explained that the 'Plus' includes special agreements for situations in which "the Convention alone does not suffice." He referred particularly to the so-called phenomenon of "secondary movements": refugees or asylum-seekers who try to seek asylum in countries other than the country of first arrival (i.e. moving further than, for example, Pakistan, Tanzania, or Jordan). By pushing for agreements to protect and assist refugees in their region (as this "would be a concrete outcome of the process of Global Consultations"), the High Commissioner has (perhaps unwittingly) indicated his priority for moving the Agenda forward in quite a specific direction.

Obviously, dictated by the dire financial situation of his agency, Lubbers needs language and measures that are popular with the hard-line governments and so needs to present his agency as a partner for these governments. A liberal interpretation of the Agenda for Protection will not go down very well with a number of governments, many of whom were the 'cause' of the Global Consultations in the first place.

With the Global Consultations coming to an end, it is high time to launch an evaluation to assess whether or not the process has been successful. The Agenda for Protection is not a bad document and probably the best that could be achieved in the current environment. The real test lies in how sincere governments are in ensuring that the document informs, and where necessary re-directs, their policies. The High Commissioner faces a daunting task in leading this implementation process.
IN THE NEWS

Sexual Exploitation: Sadly, It's Not Over

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The Accountability of OIOS

Since the beginning of the OIOS investigation, there have been concerns voiced that the OIOS investigation's report would turn out to be a "white wash" that would dismiss the methodology and findings of the report. While at the beginning of the investigation, NGOs were told that a child protection expert from the NGO community would be included, it turned out that this suggestion of an NGO representative was vetoed at the highest levels in the UN.

The entire investigation has had an air of opaqueness about it. There was a lack of clarity on the ground as to who and which organisations were being investigated — partly due to the fact that the terms of reference of the investigation have not been shared publicly. Even with the draft out, the terms of reference are still not being shared, despite several requests from NGOs and donors.

As a result, questions can legitimately be asked about the experience and expertise of the investigation team in dealing with cases of child sexual exploitation and whether the "experts" brought in were involved in all areas of the investigation. While the methodology of the original report has been questioned by several since its public release, there will undoubtedly be similar questions about the OIOS team's methodology and skills-base. Some of the answers may come once the report is publicly released, but there may be some questions that will never be answered as the mechanisms for OIOS' accountability are not clear.

While the self-highlighted achievements of OIOS' investigations are impressive [see www.un.org/depts/oios] in that they have reduced fraud, made organisational improvements, or saved money, the overwhelming beneficiaries of the unit's work are UN agencies or employees — not those who are supposed to be protected and/or assisted by those same UN agencies and their employees.

Such an organisational profile begs the question as to why OIOS was approached to undertake an investigation of such a sensitive nature, particularly considering that children are involved? Discussing sensitive sexual matters with children, let alone adults, is not a skill that most people have and it is not one that is quickly acquired. It is, however, the most important skill in child sexual abuse investigations if the real truth about such allegations is to be unearthed and if the best interests of the child are to remain at the centre of such efforts.

Keeping the Issue at the Forefront

While there are numerous questions that have been raised (and that will continue to be asked) about the way that the report was handled by UNHCR and about the way the investigation has been pursued, we must not lose sight of the lessons that should be learned from the entire experience.

Foremost should be the way in which we work together to ensure the prevention of sexual exploitation and abuse. Reacting to cases of sexual abuse and exploitation in a more timely and appropriate manner is also something that could use improvement in the future. Ensuring that allegations of abuse and exploitation are handled promptly and directed to the appropriate legal authorities is an area that must not be overlooked. There is also a need to put into place mechanisms to allow for the reporting of cases of abuse and exploitation without reprisal. There are also lessons to be learned about partnership in terms of handling such a situation in the future.

It is no secret that sexual exploitation and abuse occurs in humanitarian operations. What is needed now is a concerted effort within the humanitarian community to ensure that the momentum to put an end to such behaviour, launched by the original report, is not allowed to fall off the priority lists of humanitarian organisations, no matter what the findings of the investigation.
By Scott Leckie

In operation after operation, the international humanitarian community has largely ignored housing rights. This is despite the fact that major housing rights issues (which include property and land issues) arise in every circumstance involving warfare, conflict, and natural or manmade disasters. Consequently, at all levels — from full-scale roles of transitional governance to short-term emergency relief missions — the international humanitarian community can do far more to treat housing as a core human rights issue. To date, most attention to the issue of where people live has been reduced to shelter programmes, the construction of refugee or IDP camps, or the distribution of the ubiquitous UNHCR blue tarps now so commonplace in the world’s most ravaged places.

All of these contributions are surely to be welcomed; however, they address only a small portion of the numerous housing rights concerns that can occur during complex emergencies, post-conflict reconstruction, and nation-building. Indeed, the humanitarian community rarely even uses the term ‘housing,’ let alone ‘housing rights,’ and instead almost invariably uses the term ‘shelter’ to describe responses to the daily living conditions and housing issues confronting affected groups. While apt in many ways, the term ‘shelter,’ itself, helps to maintain a reductionist view of housing rights.

Housing rights involve much more than four walls and a roof or the shelter provided by a tent or plastic sheet. It is the embrace of an expanded vision of housing — taking fully into account the way international human rights law treats housing — that is the main challenge facing all elements of the humanitarian sector: whether UN agencies, governments, or NGOs.

Housing rights are widely recognised throughout international human rights law, and thus the legal framework required for the development of a global housing rights policy by the humanitarian sector is already in place. Standards as diverse as the Universal Declaration on Human Rights, the Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, and many others all recognise housing as a human right. Consequently, all governments possess legally binding obligations to respect and protect housing rights.

While housing rights norms address a wide range of issues (including forced evictions, the restitution of housing after conflicts, ensuring the equal rights of women to housing, physical housing conditions, access to services such as water and sanitation, and many other concerns), whenever the international humanitarian community is involved in large-scale field operations, by far the largest proportion of attention has been placed on the

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see over
emergency shelter side of the housing equation. While vital, the prioritisation of this relatively small element of (and perhaps the easiest to deal with) housing rights, has led to extraordinarily ad hoc approaches to housing by the international community, which in turn has assisted in further relegating housing rights concerns to the lowest levels of political concern.

And yet it would be difficult to identify even one major humanitarian operation — whether in an emergency phase or later on in the process — where a number of key housing rights issues have been adequately addressed. Distributing shelter kits is important, but relatively simple. Treating housing as a human right and all that that entails may not be so easy. But to ensure that housing rights are treated as seriously as other human rights, a new approach is required.

The world needs a comprehensive and consistent global approach to the housing issues facing the humanitarian sector, based on a legal framework, fully consistent with human rights standards. Several steps towards this end might include:

1. Encouraging NGOs to do more to support housing rights. Very few humanitarian NGOs employ human rights approaches to their field operations, and fewer still treat housing as a human rights issue. NGOs can make major contributions to the enjoyment of housing rights by focusing more on issues such as security of tenure, displacement, restitution, legal assistance and advice, discrimination against women, and many other housing rights themes, while not harming their vital role as housing providers in the process. Too often the physical side of housing takes up all the attention, even while the procedural side of housing is often the way that the housing sector is used to undermine human rights.

2. Revising the Sphere Project’s Humanitarian Charter and Minimum Standards in Disaster Response to include housing rights’ concerns. At present, the section concerning minimum standards in shelter and site planning is devoid of housing rights language and neglects many related concerns. Incorporating housing rights issues would substantially strengthen these standards.

3. Developing a UN-wide policy template on housing rights for any future humanitarian activities, whether UN Administrations, field operations, or otherwise. The UN needs improved coordination on all policies relating to housing (including restitution, resolving land and property disputes, emergency shelter, housing construction and respect and protect housing rights, repair, etc.), and these need to be developed within a single consolidated policy. To date they have been treated as separate issues, if they are considered at all. Such a template would assist in ensuring that future UN administrations take housing rights seriously when the first assessment missions hit the ground, and are not treated (as they so often are) as afterthoughts.

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4. Designating a particular UN Agency to coordinate any new policy on housing. Part of the reason why approaches to housing have been so disjointed has to do with both the comparatively limited role traditionally played by the UN’s housing agency, UN-Habitat, in humanitarian operations, as well as the lack of clarity with respect to the mandates of other agencies concerning housing issues. While many agencies clearly have a key role to play (See for instance UNHCR’s Inter-Office Memorandum/Field Office Memorandum on Housing Rights, November 20011), the lack of a clear division of competence among agencies has resulted in the housing question all too often taking a back seat to easier to solve, and more familiar, concerns.

5. Establishing a permanent Rapid Response Unit by the UN for dealing quickly and consistently with housing and property rights issues within emergency, post-conflict, and post-disaster environments. The lack of information concerning housing destruction and property and land disputes often presents an obstacle to effective action on these areas by the humanitarian community. Making certain that these issues are adequately covered from the start will assist in the development of future policies that actually address housing rights. NGOs can also play an invaluable part in such processes.

6. Ensuring that any future UN Transitional Authority or other large-scale operation fully incorporates housing and property issues into its administrative and governing structures from the start of their operations. The recent failures of UN missions in both East Timor and Afghanistan to adequately address the housing crises facing both countries provides clear evidence as to how easy it remains for the UN to shy away from difficult, and often massive, human rights problems, including those linked to housing, land or property.

These are just six of the many changes that need to occur for housing rights to get a fair shake by the humanitarian sector. Adequately addressing housing rights is a considerable challenge that too few institutions have yet to grapple with. If we are to treat all human rights equally and all people to whom these rights are meant to apply equally, then the time has surely come to treat housing rights as a core component of the work of the international humanitarian community.

NOTES
1. For instance, the document asserts that: In most circumstances, conditions of safe and dignified return will not and cannot be met without adequate safeguards designed to protect the rights of returnees to housing and property restitution. If housing is to be properly treated as an issue of human rights, then all housing-related policies and practices of UNHCR need, per se, to be treated as issues of refugee protection; Housing issues for refugees should be addressed at an early stage in the cycle of refugee displacement and not only after refugees have returned to their countries of origin.

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*For a list of the various international legal sources on housing rights, see the COHRE website: <www.cohre.org>.
PUBLIC DOMAIN ACCOUNTABILITY: 
THE NEED FOR MORE EFFECTIVE MONITORING

By Edward Girardet

Is Afghanistan proving to be a better-run humanitarian, recovery, and peacekeeping operation when compared to Somalia, Rwanda, or Kosovo? Have lessons been learned from the past and are they being applied? In some respects yes. Many international aid professionals, including United Nations representatives, are acutely aware of the need to do better.

Unfortunately, however, we are beginning to see some of the same old problems emerge, such as the failure to provide a clear long-term commitment or to provide effective coordination among all the different players on the ground.

The international community needs to work more closely with the more established national and international NGOs to encourage more effective accountability of aid and peacekeeping operations as a means of promoting greater transparency and coordination.

But for such monitoring to be effective, it needs to be independent, public, and ongoing. Neither Afghanistan nor the international donors can afford to have accountability remain an inside matter. It has to be out there for all to see. Everyone, including Afghans, has the need, and the right, to know what is going on, and how the money is being spent. Equally crucial is the need for the different players to know what is happening in other sectors of the recovery effort. All too often, health specialists have no idea what the logistics or peacekeeping side is doing or the food people are not aware of the environmental and sanitation initiatives. No one sector can afford to operate on its own.

Nor can such monitoring be applied in the aftermath. It helps no one to have brilliant analyses come out months, or even years, after a crisis, such as was the case with Rwanda. Only by constantly keeping the international community appraised can accountability be effective with problems tackled and, it is hoped, resolved.

As the international community has witnessed all too often with past humanitarian and peacekeeping interventions in conflict or post-conflict situations, ranging from Somalia to Rwanda and the Balkans, it is crucial to ensure constant independent and open scrutiny for the purposes of transparency. For only with such public information monitoring can one respond effectively to the interests of all concerned (locals and internationals alike), but also those financially supporting assistance.

Neither Afghanistan nor the international donors can afford to have accountability remain an inside matter.

It is vital to draw attention to lessons learned so that mistakes are not repeated or that initial focus is not lost.

Afghanistan is no exception. The recovery process is already in danger of suffering from problems, many of them foreseeable, that

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OPINION

Public Domain Accountability: The Need for More Effective Monitoring

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threaten its overall success and long-term commitment. These include insufficient or inappropriate support, poor policies, a lack of clarity, corruption, and cultural ignorance. It is therefore imperative to ensure that independent monitoring encourages more open debate aimed at improving overall strategies by closely involving the international aid, peacekeeping, media, and donor communities. There also needs to be more regular coverage of aid and peacekeeping activities so that all the different sectors have access to quick and reliable information about the operation as a whole.

For the moment, this is clearly not happening, much to the detriment of the general recovery process. And for this, there can be no excuse. Most donors are aware of the need for more effective transparency and accountability through better information, but they must be willing to support the means to achieve this. While certain monitoring mechanisms by the United Nations and other players are already in place, such initiatives are not in the position to operate on a fully independent or critical basis.

This is where initiatives, such as the recently launched Afghanistan Monitor come into the picture. It is meant to provide well-informed, responsible, and accurate coverage that will monitor the strengths and weaknesses of current operations and highlight issues that require greater public scrutiny and discussion. This will include special reports on key issues, such as health, humanitarian aid, environment, drugs, human rights, and peacekeeping.

Articles will come from not only experienced journalists, but also, on an “op-ed” basis, from representatives and analysts of the aid, military, donor, and policy communities. By serving as a critical and balanced information monitoring resource for all those concerned with Afghanistan, the Monitor can fill part of the current glaring gap of accountability: others will have to quickly step in to ensure that the rest of the gap does not go unfilled.

* Edward Girardet, a former correspondent for The Christian Science Monitor, is director of ICVA member Media Action International and editor of both the Afghanistan Monitor and the Essential Field Guide to Afghanistan.

He has reported on Afghanistan since October 1979 – three months prior to the Soviet invasion – and still writes for publications such as the National Geographic.

** The Afghanistan Monitor, which is linked editorially to the Essential Field Guide to Afghanistan, will be available as an English print version to subscribers on a fortnightly basis in Afghanistan and elsewhere. It will be made available as a free public service on the Internet: www.afghanmonitor.org.

For further information and subscription details, please contact Media Action International <www.mediaaction.org> at Geneva e-mail: info@mediaaction.org and Kabul: mainafghan@cswebmail.com.
The ICVA Conference and General Assembly will now be held from 14-17 February 2003. Previously scheduled for late October in Delhi, India, the uncertain political situation pushed the ICVA Executive Committee to decide on a change in location.

The Conference (14-15 February), will examine the theme: Strengthening NGO Partnerships in a Globalising World: From Global Rhetoric to Local Reality.

As originally planned, there will be three sub-themes:
- Partnerships between Northern and Southern NGOs
- NGOs in a Changing World Order: Defenders of Civil Society?
- NGO Partnerships in Addressing “Forgotten Crises”

Prior to the Conference, background papers on each of the themes will be produced in the form of special Talk Back issues. If you are interested in contributing to these issues, write to talkback@icva.ch to discuss your ideas with the editorial team.

The General Assembly, which will bring together ICVA members, will take place from 16-17 February and will review the past three years’ work, as well as set the workplan for the organisation over the coming three years.

Practical information, as well as substantive information on the theme and sub-themes, will continue to be posted on the special section of the ICVA website (www.icva.ch) dedicated to the Conference and General Assembly.

PROTECTING RIGHTS THROUGH HUMANITARIAN ACTION

In November 2001, a workshop, co-hosted by the Office of the High Commissioner for Human Rights (OHCHR) and ICVA in Geneva, brought together individuals from humanitarian organisations who had been working on developing human rights training. The report of the workshop is available on the ICVA website (www.icva.ch, Information Resources, Human Rights Training Workshop).

One of the concrete suggestions that came out of that workshop was the development of a website that would serve as an on-line resource for all concerned with humanitarian action. That suggestion was taken forward by the Inter-Agency Standing Committee (IASC) Reference Group on Humanitarian Action and Human Rights and a special section has been created on the ICVA website entitled Protecting Rights through Humanitarian Action: http://www.icva.ch/q3-bin/browse.pl?doc=HRHA. The pages share information about training programmes, modules and manuals, practice guidelines, and other materials related to the interface between human rights and humanitarian action in an effort to help organisations avoid “reinventing the wheel.” The webpages also host the recently released IASC publication, Growing the Sheltering Tree: Protecting Rights through Humanitarian Action, which is a collection of field practices and programmes that protect human rights. The website also allows for individuals to share their own field practices and programmes.

ICVA’s Annual Report 2001 is available on ICVA’s website: www.icva.ch or, upon request, from the ICVA Secretariat: secretariat@icva.ch.

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Talk Back is also available in French and Spanish. Write to talkback@icva.ch to subscribe to these editions. *Translations have been suspended until further notice due to financial constraints.*

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