WHAT QUALIFICATIONS SHOULD THE NEXT HIGH COMMISSIONER FOR REFUGEES HAVE?

At the beginning of next year, the new High Commissioner for Refugees will step into a position replete with challenges. Refugee protection is increasingly coming under threat from various governments, the increasing politicisation of aid is making humanitarian action more difficult, and the agency is facing huge resource shortfalls. The person who will take over from Mrs Sadako Ogata will have his/her work cut out for him/her. A range of qualifications and considerable experience will be required to ensure that the next HCR is able to meet the challenges facing the state of refugee protection and the agency.

The most essential criteria in choosing the next HCR should be the person's unwavering commitment to the agency's core mandate of refugee protection. He/She must have the willingness and ability to advocate effectively on behalf of refugees and to reassert the agency's role as a protector of refugees.

In many instances, the HCR will undoubtedly be required to stand up to governments: both through quiet diplomacy and publicly in defence of the rights of refugees. Diplomatic skills will be of indisputable importance in this role. Advocating for refugees may mean offending key donors and/or key members of the Security Council: a task from which the person must not shy away.

The person should be chosen from a country that is a signatory to the 1951 Convention or who has strongly opposed his/her country's refusal to do so.

A proven track record of upholding, and advocating for, human rights and humanitarian principles is required. Experience in humanitarian action can be an asset, but is not sufficient. This commitment to human rights is even more urgent given the inextricable link with refugee protection, as well as the Secretary-General's decision to mainstream human

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SECURITY OF STAFF: ONLY PART OF THE BIGGER PICTURE

International attention has been brought to the issue of staff security following the recent tragic events involving UNHCR staff in West Timor and Guinea. The brutal murders have highlighted the dangers of conducting humanitarian action in what are becoming increasingly hostile environments.

Efforts are now being put into improving staff security: whether through the push for better legal recourse, such as an additional protocol to the Convention on the Safety of United Nations and Associated Personnel to include all humanitarian

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EDITORIAL

IMPLEMENTING THE REFUGEE CONVENTION: THE BIGGEST GAP

The upcoming 51st Session of the Executive Committee of the High Commissioner's Programme (generally referred to as UNHCR's EXCOM) will undoubtedly discuss the Global Protection Consultations, which UNHCR announced in July. These Consultations are expected to fill existing gaps in the international protection regime. Graphically portrayed as three circles, UNHCR has pointed out that the biggest gaps in the normative framework exist in the issues placed in the third circle (e.g. burden-sharing, return in situations of mass influx, etc.) and that new law might be needed.

In this discussion so far, remarkably little attention has been paid to the biggest gap, i.e. the lack of implementation of existing norms and standards. The supervisory role given to UNHCR, an implementation mechanism of the 1951 Refugee Convention, can hardly be described as effective. One of UNHCR's obvious limitations in carrying out this task is that there is an inherent tension in "biting the hand that feeds." Most notably, many UNHCR donor countries are among those, which through their practices of restrictive asylum measures, have put the Convention under great pressure.

States are rarely held accountable for their failures to implement existing norms and standards. At a time when NGOs are being called upon for increased accountability by states, it is urgent that this objective be made reciprocal.

UNHCR's EXCOM is a strange animal as it combines different functions ranging from a governing body for UNHCR to a body which is supposed to elaborate international norms relating to refugee protection. EXCOM is definitely not the forum where states are held accountable for their failures to implement the 1951 Convention or where international refugee law is scrutinised. Several EXCOM Member States are not even party to the 1951 Convention.

In this respect, it has been suggested that EXCOM could be the main forum for the Consultations on issues framed in the third circle. But is EXCOM the appropriate body? It is extremely unlikely that EXCOM will be able to take the required sweeping measures that would really revise and improve the protection regime, such as a new mechanism for implementation. In addition, several NGOs have announced that they may have to reconsider their participation in the Consultations if the Consultations fall under EXCOM rules and procedures, which limit NGO involvement to one statement.

Leaving the question of EXCOM as the forum for the Consultations aside, the question is, what new implementation mechanisms can be considered? A reporting committee, as exists under many other human rights treaties, may not be the best solution. Many of the UN human rights committees have found that governments do not report on time, which is not necessarily an argument against the creation of such a body, but at least raises the issue of its potential effectiveness.

The best idea for a new independent international monitoring mechanism to ensure state accountability was recently put forward by a representative of a West African NGO network focussing on protection. At the NGO-UNHCR Pre-EXCOM Consultations, he stated that "the time has come for a Rapporteur on refugee issues to be put in place on the [African] continent to bring governments to book." UNHCR's senior protection staff did not respond to his call. Given the state of the world's protection regime, it would not be superfluous if that rapporteur were to have a global mandate.

Ed Schenkenberg van Mierop

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In the News

NGOs and the Military Find Common Ground

If there is a role for the military in humanitarian action, it is the task of fostering security and creating the space to enable humanitarian organisations to carry out their work. Both the military and humanitarian NGOs prefer this role for the military over the logistics and other support provided by the military involved in humanitarian aid.

This remarkable common ground was found at a panel session looking at the relationship between humanitarian agencies and the military involved in humanitarian activities held at the Pre-EXCOM Consultations in Geneva last week. The panel was composed of UNHCR, MSF, and the World Council of Churches, while the military was represented by NATO’s SHAPE (Supreme Headquarters Allied Powers in Europe).

The recent tragic events in West Timor and Guinea have proven once again that factors such as refugee camps located too close to international borders and/or infiltration by armed militias in refugee areas, constitute recipes for new disasters. There is an urgent need for the military (or police forces) to focus on tasks such as the separation of refugees and combatants, the disarmament of these combatants, and the arrest and detention of persons implicated in war crimes. A related task would be to move refugees further away from border areas, for which the military indeed has the necessary logistics capacity. Clearly, these tasks enable an organisation, such as UNHCR, to carry out its protection mandate.

In his presentation, the Assistant High Commissioner, Soren Jessen-Petersen, mentioned four roles for the military: to secure the humanitarian environment; to provide protection; to provide logistics support; and to share information. He added four conditions to these roles: the deployment should only be at the request of the humanitarian organisations; the support should be defined in an agreement and this agreement should be respected; the lines of responsibility should be clear and the operation should be civilian-led; and the military should respect the parameters for humanitarian action, including reporting.

In Kosovo, none of these criteria were met (see Talk Back 2-1) and it is questionable whether they will be met in the future, given that the military will be deployed in particularly high profile crises where strong political interests are at stake.

Since the Kosovo refugee crisis in April 1999, the debate over the relationship between humanitarian organisations and the military in humanitarian action has been intensified. It seems obvious that the military possess equipment that can help humanitarian organisations in their response to situations that go beyond their traditional capacity, i.e. huge natural disasters or sudden large-scale population displacements from conflict zones.

A number of humanitarian NGOs, many of them smaller organisations focussing on relief, view the capacity of the military as welcome as it helps them to start up and sustain their operations. As one NGO representative put it: “the military has great assets such as helicopters, but they need to be brought under civilian authority. We should be able to tell them where to fly.” In order to avoid confusion over roles and identities, the practical suggestion was made of painting the helicopters white.

Large humanitarian organisations such as the International Committee of the Red Cross and MSF have repeatedly complained about the loss of neutrality and impartiality of humanitarian aid when the military takes on a role in the delivery of aid in conflict areas. The MSF representative emphasised the point that humanitarian action must be independent and kept separate from political considerations. He made it clear that there is no such thing as a humanitarian role for the military.

Practice has shown otherwise. But, according to Lieutenant-Colonel Johnny Rollins of SHAPE, “Many NATO armies are not comfortable about going beyond their traditional roles.” The downside of this implementing role is that the military often get dragged into implementing humanitarian activities because they are seen as the most effective

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Qualifications for the Next HCR

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It would be encouraging to see that the next High Commissioner has a willingness to promote the progressive development of international law relating to refugee protection, which strengthens the refugee protection regime.

He/She must have the managerial skills and vision required to ensure that the agency is able to fulfil its mandate. The High Commissioner needs to be able to ascertain the overall needs of the agency in terms of resources, both human and financial. Based upon this assessment, the HCR must then be able to convince governments that the funds requested are necessary to fulfil the agency’s mandate.

As Mrs Ogata told the recent NGO-UNHCR Pre-EXCOM consultations in answer to a question on what advice or priorities she would identify for the next HCR, she answered that the person must not be afraid to fundraise. The ability to fundraise seems to be one that many feel necessary for an HCR. This qualification, however, requires a closer look to see whether it is really a task that should fall to the person who has been called the “refugee’s protector.” UNHCR’s budget is approved annually by its Executive Committee. Governments then voluntarily contribute to the agency to enable it to effectively carry out its mandate. Yet in 2000, the agency is facing a shortfall of US$150 million.

There is increasing pressure on UNHCR to prioritise its programmes. By highlighting the costs related to protection, the High Commissioner might be better placed to argue for the need for funds to be provided by governments.

Yet by emphasising the need to be able to fundraise, governments have shifted the burden away from themselves, in terms of providing funds, and placed the onus on the High Commissioner to solicit funds. One of the results has been that UNHCR has embarked upon private sector fundraising, raising questions about the nature of UNHCR as an inter-governmental agency (see Talk Back 2-2). It seems rather peculiar that governments, especially those from certain parts of Europe, which govern the agency and approve its budget, then force it to look elsewhere for funds to carry out its government-appointed mandate.

At the same time, the HCR must be open to collaboration and cooperation with other UN agencies and perhaps should take a fresh look at such partnerships. In some instances, the HCR may need to advocate that others within the UN system and NGOs take up responsibilities so that UNHCR can focus on its mandated role of the protection of refugees. Such collaboration should take place in a manner that strengthens refugee protection and bridges any gaps.

An area where inter-agency collaboration is of particular importance is the protection of, and assistance to, internally displaced persons. UNHCR has become involved in certain IDP situations. While inter-agency efforts are underway to improve the response to IDPs, the next High Commissioner must do his/her part and ensure that UNHCR’s policy on IDPs is applied in all situations.

It is essential for the next High Commissioner to have a commitment and openness to working with NGOs and civil society, given their role in the assistance and protection of refugees, often as implementing partners of UNHCR.

A rather controversial area that the agency will have to delve into is its relations with the military. Following experiences in Kosovo, the next HCR will have to ensure that any future relations or collaboration with the military are based on a clear division of roles and responsibilities, which is underscored by humanitarian and human rights principles.

The agency is a large one and strong leadership skills are required. The support of staff is an essential skill that Mrs Ogata noted. Given the increasingly difficult situations in which humanitarian work is carried out, there is the need for a strong commitment on the part of the HCR to improving the security of staff.

One of the pieces of advice that Mrs Ogata offered during the Pre-EXCOM session was that the next HCR should be action-oriented: he/she has to be with the refugees.

Yet all of these qualities will ring hollow without a strong personal commitment and passion for the cause of refugees, human rights more generally, and strong empathy for humanity. The next High Commissioner for Refugees’ first concern must be for refugees and the courage of one’s convictions is essential in this cause.

Talk Back 2-2

Volume 2-6, 2 October 2000
IN THE NEWS

LAST CHANCE FOR THE UN TO PROVE IT MADE THE RIGHT DECISION ON IDPs?

The UN's efforts to improve the response to situations of internal displacement continues. The latest measure in the ongoing debate over the international response to internally displaced persons (IDPs) is the creation of a Senior Inter-Agency Network that will review UN operations in selected countries and provide suggestions to ensure that the UN has a "coherent coordination structure" in place. The reviews will assess not only the assistance side of the response, but also the critical area of protection.

Many will be watching the network closely, especially donors, to see if the UN can improve its response to IDPs. Since the UN Inter-Agency Standing Committee (the UN's humanitarian coordination body) reaffirmed that a coordinated UN response is still the best solution to address the needs of IDPs, the UN has come under increased criticism for its failure to respond as such in many situations.

The real challenge that faces the Senior Network will be on the protection front. Not all UN agencies ensure protection through their assistance work. One of the questions that will only be answered with time is the effectiveness that the Network will be able to have on UN operations. Known for its inter-agency turf battles, there will likely be agencies that will not take kindly to suggestions that they are not fulfilling their responsibilities in terms of protection and/or assistance. However, with the support of the upper echelon of each UN agency, it is hoped that the Networks' recommendations will be taken seriously.

The IDP debate was brought to the world's attention earlier this year when the US Ambassador to the UN, Richard Holbrooke, stated that UNHCR's mandate should be expanded to include IDPs (see Talk Back 2-2). The UN's reply has been that the response to IDPs is coordinated either by the UN Humanitarian Coordinator; the Resident Coordinator, when assigned the responsibility; or by a lead agency, as is the case with UNHCR in the former Yugoslavia. Holbrooke's response to this was the comment that "co-heads means 'no-heads'" (see Talk Back 2-3). The Senior Network is possibly the UN's last chance to prove that it made the right decision instead of mandating a single agency with the responsibility for IDPs.

At the Humanitarian Segment of ECOSOC in July this year, where IDPs were the theme, no conclusions could be adopted. Several countries, particularly from the G77, expressed concern over the issue of state sovereignty when it came to responding to IDPs. These concerns over state sovereignty are being left to the Secretary-General's Representative on Internally Displaced Persons, Francis Deng, to address with governments through individual consultations.

Officially endorsed by the Inter-Agency Standing Committee Working Group (IASC WG) at its meeting in New York on 14-15 September, the Senior Network has already begun its work. Each agency on the IASC has appointed the focal points that comprise the Network, including the NGO consortia that sit on the IASC.

Over the next nine months, five countries will be visited by the Network, led by its Special Coordinator, Dennis McNamara who has been seconded to OCHA by UNHCR. The missions to Angola, Burundi, Colombia, Ethiopia and Eritrea, and Indonesia will examine the UN's response by measuring it against the framework of the Guiding Principles on Internal Displacement.

The Network's country reviews have two purposes. The first is to identify areas where the response in terms of protection and assistance is inadequate and to identify what might be done to address those gaps. Secondly, the Network should make longer-term recommendations for follow-up arrangements, as well as proposals on how to revise inter-agency approaches to strengthen future responses.

The reviews will be conducted with UN country teams and also in close consultation with the Red Cross/Red Crescent Movement and NGOs. At the Pre-EXCOM meetings in Geneva from 27-29 September, NGOs interested in the issue of IDPs agreed to form a reference group to follow and assist the work of the Senior Network. Missions will include NGO representatives and meetings will be held with NGOs in each country, separate from the consultations with UN country teams.

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Staff Security: Only Part of the Bigger Picture

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workers, or through more practical measures, such as increased resources for security measures.

Effectively addressing the issue of security requires more than a technical approach. Improvements in equipment will add to better security, but there is a risk that such measures are taken or approached in isolation from the broader political environment out of which insecurity arises. When beneficiaries are faced with insecurity, so, too, are the humanitarian workers assisting them.

For security to be ensured for the civilian population and for aid workers, all aspects of insecurity must be addressed, including the underlying root causes of that insecurity. Security is only one part of a bigger picture: the political environment in which humanitarian action takes place. However, addressing these root causes, which are often political in nature, is not a task for the humanitarian community. It is the responsibility of the international community to ensure that appropriate efforts are undertaken.

As advocated by UNHCR’s Staff Council President at the protest march in Geneva in September commemorating the four UNHCR workers that were killed, a threshold of risk must be defined. Once that threshold is crossed, the agency must pull out. Such withdrawal may require taking tough political decisions, but UNHCR’s staff said they would support the High Commissioner in such situations. According to the Assistant High Commissioner, Soren Jessen-Petersen, a small group has been formed in UNHCR to define criteria and benchmarks for such a threshold. When the risks to staff outweigh the benefits of being there, UNHCR must go to the Security Council to ask that political steps be taken.

However, for the UN, continuing operations has, in too many cases, been dictated by political considerations. Humanitarian work must not be compromised by the political, but it is a problem that the UN often seems to have. In some cases, ensuring that the necessary humanitarian space is provided may require a broader response on the part of the UN. In the case of Indonesia for example, the withdrawal from West Timor might have been accompanied by the suspension of all UN operations in the entire country until the Indonesian government guarantees security of humanitarian staff and protection for the refugees. But, in most cases, the UN does not seem to be able to function in such a coordinated manner: political considerations may prevent other agencies from withdrawing their staff in protest.

While the overall picture has to be addressed by the international community, humanitarian agencies and workers have several measures that they can take to ensure security. Admittedly, the security considerations for international staff and national staff are quite different. But at the same time, there seems to remain a peculiar differentiation between the loss of lives of international staff and national staff. While attention has been focused on the death and kidnapping of two international staff working for UNHCR, reports of the deaths of 11 national NGO workers during the same rampage have passed with little international notice. A confirmation of the facts is to take place on 2 October and will hopefully shed more light on the events that took place.

In terms of international staff security, it is, at the same time, both the responsibility of a humanitarian agency and the responsibility of the individual. A balance must be found between the two and support must be provided in both directions. An agency must provide the necessary training and security awareness for staff, but staff must also take responsibility for their actions. Additionally, organisations need to have the capacity to analyse the ever-changing political, social, and economic environment to have a better sense of the security situation. Tools, such as incident mapping, can be vital in this regard.

One of the best measures of security for a humanitarian organisation is the quality of its programmes and the way that it is perceived by the community, as emphasised by Jean-Marie Kindermans of MSF International during a panel session of the NGO-UNHCR Pre-EXCOM Consulations. But at the same time, cooperation and collaboration between agencies, including the sharing of information, is invaluable.

The approach taken to security by the United Nations has been largely a top-down approach: whether in relation to UN staff security or in working with NGOs on security matters. In 1996, a Memorandum of Understanding (MoU) was issued by the UN continued on next page
Security Coordinator (UNSECOORD) based in New York for NGOs to sign so that they could be included in UN security arrangements. To date, no NGOs have signed the MoU.

In February, the UN’s Inter-Agency Standing Committee Working Group (IASC WG) set up a short-term task force to “look at the co-operation between UN and NGOs on security matters.” Members of the Task Force, chaired by the World Food Programme, include OCHA, UNHCR, UNICEF, and the three NGO consortia that sit on the IASC (InterAction, the Steering Committee for Humanitarian Response, and ICVA). Following approval by the IASC WG, the recommendations resulting from the Task Force are to be fed into the UN Administration Committee on Coordination. The IASC WG “strongly made the point” when forming the Task Force that “the issue of staff security should not be seen in isolation, but that it represents a component of the more general issue of the protection of civilians in armed conflict.”

The first meeting of the Task Force concluded that the MoU was not considered a workable document at the present time. Developed without NGO input, the MoU as it now stands would subject NGOs to UN security decisions. In many cases, the UN’s security decisions are based on different security perceptions than those of many NGOs and even UN workers on the ground.

It was agreed that instead of working with the MoU, a framework agreement for operations would be developed that could guide and form the basis for security relations between the UN and NGOs at the field level. A consultant has been hired to prepare a substantial paper looking at the issues involved that will form the basis of discussion for two meetings with NGOs and UN agencies in Geneva and in the USA in mid-November that will help shape the framework agreement.

Drafting such a framework will not be an easy task given the complexity of security. Staff security is only one part of the overall protection picture, as emphasised by the IASC WG. The host government and the international community at large must fulfil their responsibilities to ensure the necessary humanitarian space. To discuss staff security without taking this larger picture into account would jeopardise the humanitarian imperative. At the same time, unnecessary risks may only do more harm than good for the beneficiaries.

Both general and specific experiences and policy on security would be appreciated for the work of the consultant for the IASC WG Task Force on Security, Anne Paludan, e-mail: anne.paludan@wfp.org.

NGO-UNHCR Pre-EXCOM Consultations’ Format Revitalised

Almost 200 non-governmental organisations – the largest number ever – participated in the NGO-UNHCR Pre-Executive Committee Consultations (Pre-EXCOM) from 27-29 September. The meeting, jointly planned by UNHCR and the International Council of Voluntary Agencies (ICVA), included plenary sessions on themes of major concern, including two panel sessions, regional sessions jointly presented by UNHCR and NGOs, and a series of thematic lunchtime briefings.

The format of this year’s meeting had been revitalised in order to encourage more debate. Moreover, invitations were extended to EXCOM members to attend as observers.

The panel sessions in which UNHCR, NGOs and experts participated, focused on issues, such as the status and quality of the NGO-UNHCR partnership and the relationship of humanitarian actors with the military involved in humanitarian assistance.

The regional sessions looked at particular issues of common concern in Africa, the Americas, Asia, CASWANAME (Central Asia, South West Asia, North Africa and the Middle East), Europe, and South Eastern Europe.

The lunchtime sessions were either hosted by UNHCR or NGOs. Topics for these sessions, included among others: UNHCR’s evaluation plans, refugee community development, UNHCR’s and NGOs’ plans to celebrate UNHCR’s 50th anniversary, and a session on IDPs.

UNHCR and ICVA have announced that they will send all participants a questionnaire in order to evaluate the Pre-EXCOM session so that next year’s agenda will be further reflective of participants’ needs and expectations.
NGOs and Military: Common Ground

in terms of lines of command, planning, and coordination. Coming back from a recent visit to Kosovo, he cited an example of the weekly meetings of the health sector being coordinated by the military. “This is not the military’s job, but Kosovo will benefit,” he said.

However, getting things done is not always the sole key objective. The manner in which they are done, and by whom, may be equally important. In the case of Kosovo, the humanitarian organisations may be well to blame for not taking the lead in coordinating the health sector.

Senior Network on IDP Response

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At the end of nine months, the success of the Network will have to be judged, but by what standards? No benchmarks have been indicated and the terms of reference are rather vague. If certain effects are not achieved, will the IASC WG simply extend the life of the network until criticism of the UN’s response to IDPs ceases? Or will the UN come to the conclusion that it may have to take a different approach to responding to the needs of IDPs?

NGO Reference Group on IDPs: send e-mail to secretarias@icva.ch for details.

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The NGO-UNHCR Pre-EXCOM consultations saw the launch of the new NGO-UNHCR Partnership in Action (PARinAC) website. The website, available in English, French, and Spanish, will provide a forum for the exchange of information and views among and between NGOs and UNHCR on issues of refugee assistance and protection.

Following a recommendation in the PARinAC Review Report, issued earlier this year, the website was developed to improve communications among NGOs and UNHCR. Concerns were raised about the level of connectivity in many parts of the world, but it was acknowledged that the situation is improving. One suggestion, which will be implemented, will be regular e-mail updates that will outline what is new on the site.

Along with basic information on PARinAC and UNHCR’s governing bodies, the website provides an up-to-date directory of national, regional, and global focal points. Focal points will be able to post documents and calendar events on the website under regional initiatives and on the What’s Hot page.

The website also serves as a source of information on the protection Reach Out process, as well as the CIS Conference. Links to various sites of interest will be added (for which suggestions are welcomed) and NGOs will be asked to link to the PARinAC site.

One of the main features of the website are the virtual meeting rooms that it provides. NGOs and UNHCR staff will be able to engage in ongoing discussions through the discussion fora. Visitors to the site register the first time they want to participate in a discussion forum so that a username and password will identify them to other visitors. Users will also be able to start fora on various topics in which they are interested.

Visit the PARinAC website: www.icva.ch/parinac