

talk back

The Newsletter of ICVA

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ARM-TWISTING IN SKOPJE

Another highly foreseeable crisis is unfolding in the Balkans these days. In the former Yugoslav Republic of Macedonia (FYROM), the relatively low-intensity conflict between the Macedonian government and the Albanian National Liberation Army (NLA) rebels is on the brink of an all-out civil war.

While the EU foreign chief Javier Solana and the NATO Secretary General Lord Robertson are paying their 15th visit to Skopje, the NLA is taking up positions just 7km outside of Skopje. The government is handing out arms to rank and file members of the governing Macedonian political parties. At the same time, mercenaries are being hired from

Ukraine to fight the battle that the Macedonian army is unable to fight, partly due to a lack of training, equipment, and will. A call on army reserves drafted less than 20% of the expected numbers, and young Macedonian men are now hiding from the military.

And, as usual, the first victims of the conflict are civilians. To date, more than 100,000 people have been displaced — more than 60,000 fled to Kosovo and Serbia while approximately 40,000 are internally displaced within FYROM. A week ago, the first two collective centres for IDPs were set up in Skopje.

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GLOBAL CONSULTATIONS: ASYLUM AND MIGRATION: TWO SIDES OF THE SAME COIN

The intersection between asylum and migration is to be discussed for the first time in a forum in Geneva during UNHCR's Global Consultations on the refugee protection regime. From the outset, given the present political discourse in predominantly Western countries, it is clear that this intersection evokes different concepts for different stakeholders.

It is therefore to be regretted that two major stakeholders, UNHCR and the International Organisation for Migration (IOM), frame the discussion within a "control" perspective and use language such as "concerns about uncontrolled irregular migration."

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EDITORIAL

MCSPHERE: FRANCHISING HUMANITARIAN AID?

By the end of this decade, multinational companies will be supplying mass relief items to clients and consumers (formally known as beneficiary populations). The relief will be delivered according to contractual obligations derived from a new disaster law that lays out standards and technical specifications.

A small number of civilian organisations are involved in some soft-sector programmes, such as education, psycho-social health care, and community services, but only if they have been accredited.

In difficult, insecure situations, military forces will take over from the multinationals. In the past, these military have been extensively trained in aid techniques in order to ensure that they do not repeat the mistakes made in the 1990s.

The clients, in turn, have the option of legal representation in situations where the goods delivered to them are not in accordance with strictly prescribed uniform standards.

This transformation from the presently diverse, divided, and dispersed aid community will not be an easy task. But, this process cannot fail because it is an integral part of the globalisation process. In fact, it will move forward as a steamroller. Those, who initially had some fears and complaints about standardisation initiatives such as The Sphere Project — a manual containing a Humanitarian Charter and a set of Minimum Standards in Disaster Relief — will be silenced by governments and donors who ensure that there is only room for actors who cooperate and buy-in to the system.

Et voila: the ‘humanitarian community’ in 2010.

The obvious question is how valid and real is this vision? And how much of the above is actually true?

Talk Back Editorial Team

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A group of predominantly French NGOs have repeatedly pointed to what is called “the dangers of the normative approach.” They point out that manuals and guidelines will not help to resolve daily battles, for example, in negotiating humanitarian access and carrying out operations that require hard choices between principles and pragmatism. They fear that initiatives, such as The Sphere Project, will lead to a one-size-fits-all approach where the differences in approaches between actors and organisations are entirely levelled. It is also submitted that there will no longer be room for innovation, originality, or individual choices since Sphere is an exclusive move towards the standardisation and homogenisation of relief.

From an insider’s viewpoint, it appears that some of the criticism of the Sphere initiative is based on misinterpretation and an insufficient understanding of, or desire to understand, all the aspects of the project. The Sphere Project was not conceived to become the McDonald’s of humanitarianism.

At the same time, Sphere is not meant to be a panacea for the difficulties of humanitarian actors in meeting all needs. It aims to be a tool in reducing the number of deaths by increasing staff competency.

Sphere also tries to define a set of common standards based on rights deriving from human rights law, humanitarian law, and refugee law. As such these standards can also serve as important advocacy benchmarks.

The debate concerning the value and impact of Sphere remains unresolved. Several French NGOs and The Sphere Project seem to be walking on different planes as they try to convince each other of their infallibility: there is a need to explore common ground. A debate is needed about the real value of standards.

Hence, the debate will, and should, continue as a genuine humanitarian community is all about debate. In fact, such a debate may help to ensure that we do not accept the institutionalisation and manipulation of humanitarian action. Hopefully, humanitarian aid will not be franchised in 2010: largely thanks to Sphere and its critics. ♦

Ed Schenkenberg van Mierop

GETTING THE HUMANITARIAN SIDE ON THE SMALL ARMS AGENDA

The upcoming UN conference on small arms will be a stepping stone in a longer-term campaign to alleviate the human costs of small arms. Yet for such an agenda on small arms to move forward, it will require the commitment of a broader range of NGOs than are presently involved. Humanitarian, development, human rights, and health NGOs need to consider making their expertise and experience available for this cause and push for a reduction in the supply and demand of small arms.

Small arms have implications not readily recognisable. The proliferation of small arms has devastating effects on civilians world-wide: in both developing and developed countries. In order for NGOs to fully realise these implications, many NGOs will have to start looking at the issues they normally work on through a “small arms lens” to fully grasp their broad-ranging impact.

The work done to date leading up to the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects (9-20 July 2001) has largely been led by peace and disarmament groups. Governments have successfully limited the discussions to merely the illicit trade of small arms when, in fact, most illicit small arms start off in legal channels. NGOs need to push governments to broaden the scope on the small arms issue beyond just their illicit trade and to also look at the humanitarian implications of small arms.

One of the challenges that any coalition of NGOs will have to overcome is the highly political nature of small arms. Governments, and even the UN, have framed the discussions on small arms within a security framework. Discussions on small arms within the UN have largely been controlled by the Department for Disarmament Affairs (DDA).

The issue of small arms is often looked at as a campaign that has come on the heels of the landmines campaign’s success. But a problem with the small arms issue is its lack of a clearly definable target, as small arms comprise several types of weapons. One broad UN definition reads “Small arms are weapons designed for personal use, while light weapons are designed for use by several persons serving as a

crew.” Small arms, under this definition, include revolvers, pistols, sub-machine-guns, and assault rifles, while light weapons include heavy machine-guns, hand grenades, grenade launchers, portable anti-aircraft and anti-tank guns, and portable missile launchers.

As noted by S. Neil MacFarlane in the preface to Don Hubert’s study of the landmines campaign (Hubert 2000), “Success in advocacy rested in part on transforming mines into a humanitarian issue...Once the issue was cast in humanitarian terms, it became difficult for states to resist the logic of the ban.”

There has been a marked lack by the broader NGO community to focus attention on the enormous human costs of the small arms issue. Development, human rights, public health, and humanitarian assistance are all impacted by the proliferation of small arms. Easily visible impacts of small arms are deaths and injuries. Some of the less obvious impacts created by the availability of small arms include: criminality; displacement as a result of armed conflict; political instability; reduced health and education facilities because of armed conflicts; the militarisation of refugee camps; and insecurity for civilian populations and humanitarian and development workers.

To date, the limited research on the human costs of small arms has been largely dominated by the North. There is a need for communities affected by the proliferation, use, and misuse of small arms to step forward so that the implications of small arms can be better understood and tackled.

The challenge for NGOs will be to shift the discourse on small arms to the human costs and to then define key objectives. Several NGOs working on this shift have formed a Humanitarian Coalition on Small Arms. While many of them are part of the already existing International Action Network on Small Arms (IANSA), other organisations are outside this network. The Coalition has developed a Humanitarian Statement for the Small Arms Conference and is working on raising awareness of the human costs during the conference.

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Global Consultations: Asylum and Migration: Two Sides of the Same Coin

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The two international organisations have closely worked on a joint policy document. It can be assumed that UNHCR has tried to safeguard respect for the 1951 Convention Relating to the Status of Refugees and its subsequent Protocol. IOM, at the same time, is likely to have focused on the control element within the emerging concept of an international migration regime.

As a result, the document appears to be not as “joint” as perhaps was initially desired, as 36 of the 48 paragraphs in the document have been drafted separately. Students of geometry are taught that parallels never meet.

What is the nexus about? For receiving states in the North, it is about curbing unfounded refugee claims. The ensuing language includes: “bogus asylum claims,” “imposition of visas,” “carrier sanctions,” “interception,” and “detention.” As for States from the South, their voice has been relatively absent from this debate.

For refugee advocates, the nexus conjures up risks of dwindling protection from persecution, denial of fair access to asylum procedures, and non-respect of the principle of non-refoulement.

For migrant advocates, the refugee/migration nexus conjures up instances of abject poverty and violations of economic and social rights resulting in forced migration movements. Key words for them are “root causes,” “unjust world order,” “indivisibility of rights,” and “absence of legal immigration regimes.”

Looming over the whole debate is the issue of trafficking in persons and the smuggling of migrants. All actors should stick to the discipline of clearly distinguishing between the two and resist the temptation of reducing the migration debate to this single dimension. Furthermore, a point often overlooked by inter-governmental organisations is that governments have contributed to the problem by limiting access to asylum through interception and carrier sanctions.

The UNHCR Global Consultations are attempting to tackle this nexus. NGOs believe that two rules of thumb should guide stakeholders of good will: first, all approaches should be rights-based; and second, no strengthening of protection for one set of human beings should be set against the denial of assistance and non-respect of the rights of another group.

One helpful guiding element for drafting recommendations is that they must address the whole spectrum of migration: from the reasons that compel people to leave to the end of their journeys. Recommendations should cover the various legs of the journey. At the same time, a transversal dimension relating to root causes should also be addressed.

Before the movement of persons takes place — either prompted by persecution as defined in the Refugee Convention or by other compelling reasons — it is necessary to deal with circumstances preventing persons at risk from leaving their countries. It is also necessary to acknowledge the obstacles to obtaining the necessary documentation before attempting to take flight. Awareness also needs to be raised about the dangers and legal consequences of trafficking in persons and the smuggling of migrants.

During transit, elements to be examined include: options for final destinations (the differing interpretation of the Refugee Convention by different States and the existence of family ties of community support networks); challenges as to the legality of carrier sanctions and interception measures; abuse and ill treatment by traffickers; and the status and treatment of those who are obliged to stay in airports’ international areas.

At borders, it is key to ensure full access to asylum procedures; provide training to immigration personnel on the rights of refugees and migrants; assist unaccompanied children; and impress upon States that asylum is not a migration tool (refugees cannot be admitted according to their professional qualifications).

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**GLOBAL CONSULTATIONS:
WANTED: NEW IMPLEMENTATION MECHANISM
FOR REFUGEE CONVENTION**

Fifty years after the adoption of the Refugee Convention, the international community is finally looking at the question of its implementation in the context of the Global Consultations on Refugee Protection convened by UNHCR. Several models already exist in the human rights framework, which are worth examining.

Like the other human rights instruments, the Convention contains a provision for a body to supervise its implementation. Unlike these instruments, however, the Refugee Convention's body is not an independent committee, but the body also charged with assuring protection to refugees — the Office of the UN High Commissioner for Refugees.

As an institution dependent upon funding from States, UNHCR has to be cautious about whom it offends. In order to maintain access to refugees and others of concern for whom UNHCR is uniquely mandated to provide international protection, the Office feels obliged to minimise public criticism of human rights violations against refugees. UNHCR compiles protection reports on countries for internal use; it does not publish these and, instead, uses this data to pursue quiet diplomacy with offending States.

While no one doubts that UNHCR pursues such efforts, it is impossible to assess whether it does so consistently or effectively. Such secretive procedures prevent refugees and their supporters from being adequately assured that the Office is taking note of rights violations and doing something about them. In view of the lack of resources devoted to protection at UNHCR, it is debatable whether its duty of supervising the Convention amounts to anything more than theory. For example, while UNHCR receives notice of all rejections of asylum in the UK, it intervened in only four appeals against rejection during a seven-year period in the 1990s, during which time tens of thousands of appeals were heard and dismissed.

As UNHCR supervises implementation of the Convention in private, there is no public forum in which to discuss problems and shortfalls in refugee

protection. Neither the UNHCR Executive nor Standing Committees look at States' compliance with the Convention.

While the human rights treaty bodies have shown increasing willingness to take up cases concerning refugees, it has been on an ad hoc basis and generally confined to individual complaints.

There is no effective NGO coalition auditing compliance with the Convention in any consistent or effective manner, although even if one did exist, such a coalition cannot serve as a substitute for a supervisory body.

Aside from monitoring State compliance with the Convention, an important, and related, question is who is adequately monitoring UNHCR and its implementing partners in the delivery of protection and assistance to refugees?

The challenge is to devise a new mechanism that will be acceptable to States, while at the same time being effective, independent, impartial, and efficient. It must also be open to input from NGOs. While most of the human rights treaty bodies are seen as dysfunctional, some of them have extensively benefited from NGO input which has been based on experiences world-wide.

One suggestion made in terms of a new monitoring mechanism is a Special Rapporteur on the rights of refugees, housed within the Office of the High Commissioner for Human Rights. He or she could bring mass violations of refugee rights, which occur today, to the world's attention. Such a figure would bring an important, if often overlooked, element to naming and shaming: governments are less willing to slam respected figureheads.

In the final analysis, however, we may have to look outside the UN system for possible monitoring models. The World Bank Inspection Panel or the Development Cooperation Reviews of the

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Within the country of asylum or host country, other points of intersection are: arbitrary detention; contemporary forms of slavery; family reunification; trauma recovery; access to education and social services; right to work; right to assembly; non-discrimination; regularisation programmes; and the ratification, lifting of reservations, and implementation of relevant international norms and standards.

Before, during, and after return there is a need to ensure: protection against mass expulsion; the voluntary nature of return; the dignified treatment of returnees; conditions of acceptance of returnees by the country of origin; capacity-building for returnees; and the existence or creation of tolerance-building, reconciliation, and trauma recovery programmes as necessary.

In conclusion, there is obviously more to the refugee and migration intersection than the “control” element. UNHCR and IOM should be encouraged to do some soul-searching and rediscover the humanistic roots in their respective mandates in order to find some more positive language to deal responsibly with this increasingly growing and complex grey area. If an Action Group is going to be set up between IOM and UNHCR, it is key to involve the Office of the High Commissioner for Human Rights, in particular the Special Rapporteur on the Human Rights of Migrants, where protection for migrants is located within the UN system.

Many non-governmental organisations stand ready to contribute insights and action-oriented suggestions, based on their knowledge and first-hand experience with the real human beings behind the various contemporary definitions of forced migrants. ♦

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The joint UNHCR-IOM paper for UNHCR's Global Consultations, “Refugee Protection and Migration Control: Perspectives from UNHCR and IOM,” is available on UNHCR's website: www.unhcr.ch (http://www.unhcr.ch/prexcom/standocs/english/gc01_11e.pdf).

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**Global Consultations:
Wanted: New Implementation Mechanism for Refugee Convention**

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Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD) provide examples of peer review, which could prove more helpful in achieving implementation of the Refugee Convention than public naming and shaming. ♦

Background Paper for Second Track (Expert Roundtables) of the Global Consultations on International Protection: Kalin, Walter. “Supervising the 1951 Convention on the Status of Refugees: Article 35 and Beyond,” is available on UNHCR's website: www.unhcr.ch (<http://www.unhcr.ch/issues/asylum/globalconsult/art35.pdf>).

STAFF SECURITY RECOMMENDATIONS HELD HOSTAGE

After more than a year of consultations on inter-agency collaboration on staff security, the resulting recommendations may end up being held hostage by the UN's maze of a bureaucracy. The recommendations were adopted last month by the UN's main humanitarian coordination body, but it seems that the UN's "highest level coordination body," the Administrative Coordination Committee (ACC) is not so willing to move forward on the recommendations: at least not yet.

The issue of staff security is one that has gained attention of late as humanitarian workers find themselves in increasingly dangerous situations. In 1996, the UN Security Coordinator (UNSECOORD) introduced a Memorandum of Understanding for NGOs that would bring them under the UN security umbrella, but would not provide them with the same levels of physical protection as UN agencies. The result of this top-down approach was that no NGO signed the MOU.

The realisation that humanitarian actors are affected by the actions of others partly led to the creation, by the Working Group of the Inter-Agency Standing Committee (IASC), of a Task Force on Staff Security (see article in *Talk Back* 2-6). The Task Force, chaired by WFP, carried out two consultations in Geneva and Washington, D.C., involving UN and non-UN participants as it looked into ways that inter-agency collaboration could be improved in terms of staff security.

The recommendations of the task force are divided into three sections: general; field-related; and follow-up. The general section includes calls on UN and non-UN actors to adopt policies on strengthening collaboration on staff security, both at the HQ and field levels; to jointly advocate for increased resources to meet the demands of staff security collaboration; to appoint agency security focal points; and to strengthen security management.

The field-related section's recommendations include: enhancing the role of the UN Designated Official in UN/non-UN security collaboration; enhancing UN/non-UN collaboration in the UN Security Management Team; selecting NGO field security

focal points; convening UN/non-UN fora for field security collaboration; sharing resources; including UN/non-UN staff security in the UN's Consolidated Appeals; and sharing information.

One of the follow-up recommendations suggests that "while recognising the non-binding character of the recommendations" from the Task Force, "individual IASC WG members...seek legal opinion on the application of the recommendations." In discussions of the Task Force, this recommendation was directed towards individual agencies that felt the need to seek legal opinion and was not meant to encourage the UN system into a legal discourse on the recommendations.

Other follow-up recommendations include dissemination and evaluation of the recommendations by all IASC WG members, as well as reviewing the implementation of the recommendations.

In addition to the recommendations are a "menu of options" for UN/non-UN security collaboration in the field from which options can be chosen that will address the security needs in particular situations.

The IASC Working Group, in adopting the recommendations of its Task Force on Staff Security, decided to also send them to the annual security meeting of the UN's Administrative Coordination Committee (ACC). The reasoning behind this move was, among other things, to ensure that the results of the inter-agency consultations could be incorporated into the UN field security handbook. While the ACC broadly endorsed the principles in the Task Force's recommendations, several members felt that the recommendations needed to be sent to the UN's legal office.

The IASC, which includes non-UN actors (namely, three NGO networks: ICVA, InterAction, and the Steering Committee for Humanitarian Response, and the Red Cross Movement), deals with humanitarian coordination. The ACC brings together heads of some 25 United Nations specialised agencies,

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programmes, and funds, as well as the World Bank, the International Monetary Fund (IMF) and the World Trade Organization (WTO). The UN Security Coordinator (UNSECOORD), while not a member of the IASC, participated in the work of the Task Force on Security, as well as the ACC security meeting.

Where will the UN go with the recommendations of the Task Force on staff security now that the IASC has adopted them, but the ACC has referred them to the legal office? That is a question that seems to be up in the air at the moment, at least for UN agencies. The commitment to improving collaboration on staff security seems to be quite strong within some of the UN bodies, but their ability to move forward on the recommendations may be hampered by the ACC's recent decision.

One of the most important outcomes of the consultative process will hopefully be the trickling down of a change in organisational cultures that realises the need and value of collaboration over the top-down approach to staff security.

For the non-UN members of the IASC, the recommendations were adopted and now need to be disseminated throughout the system, as part of the follow-up, so that humanitarian actors can start implementing them. However, given that it takes a considerable amount of time for IASC decisions to trickle down to the field level (if at all), NGOs have an important role to play if they want to see the results of the Task Force disseminated and put to use.

OCHA is to report back on the progress made to the next IASC WG meeting in September and the experiences of NGOs will be crucial in determining the value of the recommendations. Only through feedback based on experiences can improvements be made to the recommendations. NGOs should actively feed both their positive and negative experiences with the recommendations into the NGO consortia on the IASC in time for the 13-14 September meeting.

In the meantime, as the UN bureaucracy grinds its wheels, individual UN agencies, which are committed to improved UN/non-UN security collaboration, perhaps will have to work on operationalising the recommendations on their own. One of the most important outcomes of the consultative process will hopefully be the trickling down of a change in organisational cultures that realises the need and value of collaboration over the top-down approach to staff security.

The situation that has arisen with the staff security recommendations is another indication that the UN, as a whole, needs to re-examine and streamline its decision-making structures in order to become more effective, efficient, and accountable, particularly when it concerns an issue as serious as staff security.

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The reports of the inter-agency consultations carried out in Geneva and Washington, D.C. are available on the ICVA website (www.icva.ch), Information Resources page.

The recommendations of the Task Force on Staff Security are available on the What's Hot page of the ICVA website (www.icva.ch).

ISSUE OF THE MONTH: IDPs

UN CREATES HARMLESS IDP UNIT, NGOs FEAR

Many UN organisations, donor governments, and recipient governments will feel very comfortable about the endorsement of the UN Secretary-General (SG), which came at the end of May, to create a new, five-staff unit for internally displaced persons (IDPs) in the UN system. This decision comes after a year's intense debate on how the UN response to IDPs should be improved in terms of protection and assistance.

Internal displacement today affects more than 50 million people, according to the April 2001 report of the Senior Coordinator on Internal Displacement. The UN's recent decision to create a dedicated IDP unit suggests that the organisation is taking this issue now more seriously.

However, from the proposal to create the unit it becomes clear that the UN has chosen not to make IDPs a top priority, but would rather prefer to do some window-dressing. Deliberately, the unit has not been designed to induce the reforms the UN system desperately needs in order to overcome a number of fundamental problems, particularly on essential issues such as protection, access, and accountability. The unit has not been provided with the power to correct the failures of the UN system in meeting the needs of all IDPs. Some heads of the humanitarian UN agencies have been keen to circumscribe the tasks of the unit and stressed that it should be non-operational.

The tasks of the unit, which will not be fully staffed until January 2002, will be to monitor the situation of IDPs globally, to review the response to IDPs in selected countries, and to make recommendations in order to address operational gaps. While these tasks may be worthwhile undertaking, there are immediate questions to be answered. How can five staff monitor 50 million IDPs? What will be the criteria for selecting which IDP situations will be reviewed?

As the proposal presently stands, like its institutional home OCHA, the unit will not be able to allocate operational responsibility. Last year, the UN decided that the so-called collaborative approach should guide its response to IDPs. Basically, this approach

means that the Resident or Humanitarian Coordinator decides who should become involved with IDPs. As pointed out in *Talk Back* 2-3 at the time, this approach is problematic. UN agencies can continue to hide behind each other and point at their colleagues in cases of protection and coordination failures. Thus, a watchdog who would be looking over their shoulders and who could hold them accountable for their failures would be the last thing they would want.

The limited commitment of the UN agencies to the unit is also illustrated by UNHCR's recent "three green lights policy." According to the High Commissioner, Ruud Lubbers, UNHCR must have the authorisation from the UN SG, there must be consent from the State concerned, and adequate resources should be available.

While intended as an attempt to clarify the long-standing issue of HCR's policy regarding IDPs, the policy in fact does not provide any new perspectives at all. In practice, for UNHCR it will be business as usual (see also the piece on Afghanistan in this issue).

It has been decided, however, to provide the unit with the capacity to deploy an IDP coordinator in cases where there are clear operational gaps. The question remains what the role of this official will be and what impact s/he will have on the response.

One of the biggest gaps remains in the area of protection. As pointed out in an NGO paper issued in March by ICVA, NGOs have repeatedly pointed out that the Office of the High Commissioner for Human Rights (OHCHR) should become more proactively involved with IDPs. However, neither OHCHR nor its donors have so far suggested that the protection of IDPs should be made an OHCHR priority.

The main role for the unit seems to be in the field of advocacy on IDP situations and to raise the necessary funds. Many IDP situations remain

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UN Creates Harmless IDP Unit

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severely under-funded. However, a five-staff unit, which will be funded out of voluntary contributions will not worry donor governments.

There are views that the unit is far from ideal, but that it is a first small step in a larger process of improving the system. If the UN agencies, NGOs, and other humanitarian actors do not support the unit, donors and governments will be even less prepared to take the unit seriously.

In order to increase the profile and place of the unit, a first thing for governments to do is to push for its to have head direct access to the SG, so that urgent IDP situations can be brought to his attention.

The unit itself can make a real case about its capacity and effectiveness. After a year's existence, the unit should call for its effectiveness to be assessed in terms of its concrete impact at the field level in improving the response to IDPs. Accordingly, the unit should define benchmarks to be able to better assess its impact on the lives of IDPs themselves. ♦

“Some NGO views on an Institutional Response to Internally Displaced Persons,” March 2001, www.icva.ch .

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Getting the Humanitarian Side on the Small Arms Agenda

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By focusing the small arms issue on the human costs, there is a better chance of addressing the supply and demand sides of small arms. If more NGOs understand the impact of small arms on their work, they will be in a better position to define their own roles within such a Humanitarian Coalition and work towards reducing the negative impact of small arms. The Small Arms Conference could be a first step in beginning a more encompassing campaign against small arms that could match the successes of previous NGO campaigns. But first, a clear message and well-defined goals need to be identified, behind which NGOs can then rally. ♦

The Humanitarian Statement for the Small Arms Conference can be found at: <http://www.hdcentre.org/html/Programmes/Smallarms.html> for sign-on by organisations.

The Humanitarian Coalition is planning a meeting during the Small Arms Conference in New York. For further details, contact Cate Buchanan at the Centre for Humanitarian Dialogue cateb@hdcentre.org in Geneva, tel: +41 22 908 1130, fax: +41 22 908 1140.

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ISSUE OF THE MONTH: IDPs

MOVING AFGHANS FROM BAD TO WORSE

It seems like UNHCR may be taking on IDPs in Afghanistan as High Commissioner Ruud Lubbers' "three green lights" for involvement in an IDP situation have turned on. Since Pakistan expressed frustration over the desire of Afghans to continue entering Pakistan, Lubbers has been arguing, within the UN system, that a new approach is required to deal with the situation of Afghans.

Following the High Commissioner's recent trip to Iran, Afghanistan, and Pakistan, the details of that new approach are becoming clearer. UNHCR is to start a screening process with the Government of Pakistan to separate those in need of protection from those who are not considered genuine refugees, partly to relieve pressure on camps in Jalozai.

However, screening has been delayed, likely for a couple of weeks, pending the receipt of signatures from the Pakistan State and Frontiers Region — SAFRON. Those found not to

This attempt at a quick fix to an ongoing and unresolved problem will do little to improve the lives of Afghans.

be in need of protection are to be returned by the Pakistan government to Afghanistan: a rather futile attempt at a durable solution when there is ongoing fighting constantly leading to new displacement. The futility of this exercise is exacerbated by the fact that the Afghan-Pakistan border is long and porous and returnees are only likely to return to Pakistan again.

This attempt at a quick fix to an ongoing and unresolved problem will do little to improve the lives of Afghans. If UNHCR were to take on IDPs inside Afghanistan, surrounding countries would then have the necessary

ammunition to justify keeping their borders officially closed. The provision of such protection must not be used as an excuse for Pakistan to shirk its obligations to grant asylum.

Almost ironically, the Government of Pakistan has been supportive of the Taliban whose policies have caused many to flee the country and must, therefore, share responsibility for the current situation. The pressure from the Government of Pakistan to create IDP camps just across the border to relieve pressure

on Pakistan's public system is more an act of internal political appeasement than a genuine effort to better the situation for Afghans. Local UNHCR officials state that they are against the establishment of pre-planned camps in Afghanistan (a shared position in the UN family).

While it is necessary to screen those that Pakistan wants to return to ensure that asylum seekers are granted protection, UNHCR and the international community should be strongly condemning Pakistan's desire to return Afghans when the humanitarian situation in the country is worse than ever and there is no political solution in sight. Instead, many of those who will be returned will likely come under UNHCR's mandate once in Afghanistan.

While the three green lights for UNHCR's involvement in an IDP situation may be flashing (see related article on IDPs in this issue of *Talk Back*), UNHCR seems to be headed in the direction of a unilateral decision to take on IDPs. Perhaps a fourth green light also needs to be added: namely, that involvement should only take place when it in no way encourages an increase in the number of IDPs, especially by unwittingly facilitating border closures.

see over

ISSUE OF THE MONTH: IDPs Moving Afghans from Bad to Worse

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Yet, more generally speaking, should it be UNHCR alone that makes such a decision, especially when the UN has repeatedly reiterated that the collaborative approach is the best one for responding to IDP situations? In

“This is a time to provide large-scale humanitarian assistance in a way that does not undermine Afghan social capacity. That means, concentrate efforts at point-of-origin and seek to build up and build on local initiatives. IDP camps provide assistance in a way that undermines Afghans’ ability to recover.”

While undoubtedly internal UN discussions contributed to UNHCR’s decision, it hardly seems as if the collaborative approach has been put to good use in this instance.

One of the recommendations of the recent UN Senior Inter-Agency Network on Internal Displacement’s mission to Afghanistan was to plan for point-of-origin programmes. While large IDP camps may stem larger flows of migration, they do not necessarily improve the overall situation of the people being assisted. While a cessation and/or reduction in the conflict is necessary, the provision of humanitarian resources can affect the way in which changes take place in the country.

“This is a time to provide large-scale humanitarian assistance in a way that does not undermine Afghan social capacity. That means, concentrate efforts at point-of-origin and seek to build up and build on local initiatives. IDP camps provide assistance in a way that undermines Afghans’ ability to recover,” notes CARE’s Country Director in Pakistan, Stuart Worsley, who participated in the April mission of the Senior Network on behalf of NGOs.

Additionally, the question of how UNHCR will ensure the protection of IDPs remains open. UNHCR refused to provide protection or assistance to 10,000 Afghans on the Tajik border, partly based on the argument that combatants among the population should be separated (see article in *Talk Back* 3-2). Without a host government to separate combatants from civilians, UNHCR will face severe challenges in ensuring the protection of IDP populations within Afghanistan.

It is likely that Pakistan’s repatriation exercise will soon prompt Iran to demand the same screening and repatriation of thousands of Afghans. Both Iran and Pakistan have repeatedly stated that other States also have a responsibility to do more to assist them with their large refugee populations. Now, in defending their plans to repatriate refugees, they point to the practices and policies of Western States vis-à-vis asylum seekers.

In the case of Afghanistan, the problem is that repatriation will hardly be durable given the lack of a resolution to the ongoing conflict. One must wonder whether the High Commissioner’s “new approach” is the first example of what is being introduced as a “durable” solution

according to a recent UNHCR document: “reintegration as part of conflict solution.” Returning civilians to conflict situations seems a foolhardy

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means of bringing about an end to a conflict, especially in Afghanistan where it has been raging for so long. UNHCR should be speaking out strongly against such actions instead of facilitating them. ♦

IN THE NEWS

Arm-Twisting in Skopje

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The international community has so far played down the humanitarian aspects of the crisis. The risk is that if the situation gets out of hand, the necessary contingency and coordination structures are not in place, especially in FYROM.

The conflict in FYROM was predictable. The Albanians, who constitute between 30 and 40% of the population (no Macedonian authorities dare to count, lest they disturb their own official figures of 20-25%), are without many basic minority rights, such as the right to use their own language, State support for minority institutions, and reasonable representation in the police and army. Although Albanian parties are represented in the Parliament in Skopje, they have little influence on policies that are primarily dominated by nationalistic Macedonian parties.

So what has the international community done to prevent this foreseeable crises? Well, when the NLA took up arms, the heavy artillery was sent in: Solana and Robertson. At first, they strongly condemned the NLA, calling them terrorists who should have no say in the negotiations whatsoever. Then it was realised that the other side was also to blame for the problems and that the “terrorists” might have concerns needing attention. So, they were no longer called terrorists and the government was called upon to show restraint. That change in attitude may have coincided with the realisation that the Macedonian army was in no shape to win without NATO support, but that such support might not be readily forthcoming.

But again, the international community seems too late. Even the 11th, 12th, 13th, and 14th visits of Solana did not bring any progress in the negotiations and the fighting continues to escalate, with only short cease-fires when Solana or Robertson are in town. Maybe they should stay instead of running in and out of the country.

The conflict is a paradox to outsiders. Neither the majority of Macedonians nor the Albanians want a

war. And, politically, in fact, the parties seem very close. What the Albanians demand are equal rights written into the constitution, the right to their own languages, State support for their own university, equal representation in the army and police, and amnesty for fighters. Moderate Macedonians had offered the Albanians nearly all that. But by focusing on the issues much too late, the international community has allowed extremists on both sides to gain ground, and they are now in positions where a compromise is defeat.

In this 11th hour, Solana and Robertson are twisting the arms of the nationalists in Skopje, as they hold the first key to a political solution. If they do not succeed, the world will witness one more example of a crisis with grave humanitarian consequences that we saw coming, but on which the reaction was too little and too late.

The humanitarian problems are increasing. With 20,000 more refugees seeking asylum in Kosovo this past weekend (22-24 June), adding to the 40,000 already there, the UN enters scenario 2 of its Emergency Contingency Plan. Fortunately, the UN in Kosovo seems to be well-prepared for the crisis. But in FYROM, the situation is somehow different. The government shows no interest whatsoever in coordinating or facilitating support to the more than 40,000 IDPs (mainly Albanians) from the conflict. As the mandated agency, ICRC is struggling to gain access and deliver relief to the IDPs. The government has given responsibility for the registration of IDPs to the Macedonian Red Cross, which is widely perceived by the Albanian minority as pro-government, with the result that many IDPs do not register or ask for assistance.

The Macedonian government and UN must quickly decide on a mechanism for coordinating and developing plans for support and assistance to the fast growing numbers of IDPs in the country. The Macedonian IDP situation could serve as a test run for the proposed IDP unit within OCHA (see related article in this issue of *Talk Back*, page 9). ♦

“TALK BACK”

IOM RESPONSE TO *TALK BACK* 3-2
EDITORIAL: “MIGRATION, INC.”

[ICVA received this response to the editorial contained in the last issue of *Talk Back* (3-2) from the International Organization for Migration. Permission was granted by IOM to reproduce the response in this issue.

— *The Talk Back Editorial Team*]

IOM supports the advocacy role of NGOs on human rights and humanitarian principles, and welcomes efforts of NGOs to bring to IOM's attention concerns about the application of such principles to IOM's operations. Not only does IOM have long-standing cooperative operational relationships with many NGOs, several years ago, IOM began a consultation process with NGOs that could serve, among other things, to facilitate such efforts in a timely way. IOM is in the process of seeking to reinvigorate this consultation mechanism. With regard to the recent editorial in *Talk Back* newsletter, “Migration, Inc.,” however, there are a number of unfounded assertions that underlie the author's conclusions and thereby cast an unduly negative light on the implementation by IOM of its mandate. In particular, IOM strongly rejects the statement that IOM's operations are uninformed by human rights and humanitarian principles and that they may even result in violation of the beneficiaries' rights.

1996 Hutus/Tutsis

IOM notes the author's assertion relating to logistics provided by IOM in 1996, stating “IOM was asked to truck ... Zairian Tutsis from North Kivu, where extremist Hutus were creating a Hutu-land and carrying out a policy of ethnic cleansing among Tutsis who were internally displaced. IOM brought the Tutsis across the border to Rwanda, thereby aiding the extremist Hutus in achieving their aims.” IOM finds this statement to be irresponsible and uninformed in view of the fact that IOM

refused to transport the Tutsis for this very reason.

In late 1994 and early 1995, IOM received repeated requests from the Government of Rwanda and Tutsi representatives from Masisi to repatriate refugees from 1959 who wished to return home. In this connection, IOM, in a manner similar to UNHCR, conducted verifications ensuring that the Tutsis requesting to return voluntarily to Rwanda were indeed refugees from 1959 and not native Zairean Tutsis (Banyamulenge).

In 1996, when the armed conflict in the region posed serious threat to the lives of the Zairian Tutsis in Masisi, the latter decided to go to Rwanda to seek temporary asylum. The Tutsis who crossed the border on their own were placed in refugee camps on the border, a measure akin to that undertaken in Rwanda with respect to the Hutu refugees. It is in light of this situation that several representatives of the Masisi Banyamulenge approached IOM requesting IOM to help transport them. Concerned about the effect such transport could have upon the already existing tensions among the population in Zaire, IOM, in fact, refused to transport the Tutsis.

IOM's Objective and the Human Rights of Migrants

IOM is an inter-governmental organisation with a distinct mandate and operating responsibility from that of NGOs. Inter-governmental organisations, such as IOM, are created by governments, seek collaboration among governments, and the decision-making powers of such organisations (such as in approving both budgets and programmes) are, in fact, exercised by representatives of governments. Nonetheless,

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IOM, similarly to other inter-governmental and humanitarian organisations, is also very concerned about the respect and promotion of human rights in the implementation of its programs.

By virtue of its Constitution, IOM's objective is to ensure the orderly and voluntary migration of persons to countries where they can live in dignity and self-respect. This does not give IOM a specific legal protection mandate. Yet it is acknowledged that many of its activities contribute to protecting civil, political, economic and social rights of migrants. While IOM respects the protection function of its partner inter-governmental organisations, IOM does not duplicate the work of supervisory and monitoring bodies concerned with the application of international norms protecting the rights of migrants. IOM's contribution to the promotion of the effective respect for the human rights of migrant workers and other migrants is achieved through its numerous programmes and activities, which reflect the motto that “orderly and humane migration benefits migrants and society.” In assisting States to meet their migration management challenges, IOM is committed to upholding the human dignity and well-being of migrants.

Non-governmental organisations are not responsible to States in the same manner that inter-governmental organisations are, by their very nature, and are not endowed with governmental tasks. This important distinction underlies IOM's responsiveness to the needs of its Member States. This is not to suggest that IOM, as a distinct entity, is not obliged to uphold the requirements of its Constitution, including in the face of possible requests by its Member States to undertake activities to do otherwise. In such an instance, IOM would be bound to refrain from any activity not consistent with its mandate and Constitution, including its commitment to uphold the dignity and well-being of migrants.

Human Rights Protection in IOM Operations

The author's statement that IOM's operations are uninformed by human rights and humanitarian principles and may even result in violation of the beneficiaries' rights is indicative of the author's lack of awareness of the activities undertaken by IOM to promote the rights of migrants, as well as IOM's many operational activities in support of migrants.

IOM actively supports the ratification of, and indeed has actively participated from the very start in the Steering Committee promoting the ratification of, the 1990 UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. IOM also organises and participates in workshops, seminars and information dissemination campaigns specifically directed at increasing awareness of the rights of migrants. In many countries, IOM is also working very closely with UNHCR and refugee populations with the same ethic of protecting their rights.

On the programmatic level, IOM

- is among the pioneers in implementing programs designed to counter the trafficking of migrants, especially of women and children recruited by criminal networks, and provides special assistance to the victims of trafficking (such as establishment of shelters, advocacy, and protection during transport);
- conducts information campaigns on the rights of migrants and the realities of migration as a means of empowering migrants through the acquisition of knowledge. By providing migrants and other foreigners with knowledge of their rights, and procedures to implement these rights, respect for these rights is promoted, and practical steps against discriminatory practices can be initiated;

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- promotes the image of migrants and facilitates their integration as well as respect of their medical rights through targeted information campaigns;
- engages in capacity-building and information projects in countries and regions such as the Baltics on legal assistance to migrants, including children, and trains law enforcement officials on the rights of migrants and on the humane treatment of trafficking victims;
- has established numerous reintegration programs, particularly in post-conflict and emergency scenarios, which include job placement and employment generation schemes which include a strong aim of protecting the civilian populations from tensions and human rights abuses, as has been the case in West and East Timor;
- serves as the effective guarantor of the non-exploitation of migrants through its consular and immigration services, as compared to risks they might otherwise face when these services are provided by the private sector,
- devoted the entire latest issue of IOM's journal *International Migration* to the subject of migration and human rights; and
- is establishing a Migrants Rights Centre in Morocco.

This list is merely illustrative of the substantial and increasing range of humanitarian and human rights-related work of IOM. IOM activities are routinely and consistently endorsed by IOM's Member States.

IOM hopes that this information will serve to better inform the author and/or draw the

author's attention to the types of activities of IOM which are specifically addressed to the protection of human rights and the promotion of humanitarian principles.

Should the author or other members of ICVA wish to obtain additional and regular reliable information from IOM on its activities in support of human rights and humanitarian principles, please contact Jean-Philippe Chauzy, Chief of IOM's Policy Guidance and Media Unit, at +41 22 717 9361. ♦

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