



talk back

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SPECIAL ICVA CONFERENCE ISSUE NGOs IN A CHANGING WORLD ORDER: DILEMMAS AND CHALLENGES

The ICVA Conference on *NGOs in a Changing World Order: Dilemmas and Challenges* is, unfortunately, a timely event. Unfortunate, in the sense that it is overshadowed by the possibility of a war in Iraq. Timely, in the sense that it provides representatives of NGOs, UN agencies, and governments the opportunity to debate some of the challenges that will be faced if such a war does take place. The interim report of the weapons' inspectors that will be put to the Security Council on 14 February could

tip the balance one way or another in terms of the next "battle" in the "war on terror."

The rubric of anti-terrorism seems to be increasingly creeping into the language of policy-makers and politicians. The fear-mongering about terrorists and the threat of terrorism finds many followers in various corners of the globe. But what does all the rhetoric about terrorism actually amount to in practical terms? Is the war against terrorism here to stay? Is it a concept that will increasingly shape government policies? Or, is it a state of paranoia on the part of some that soon will be replaced with something else? Either way, it seems that we are being confronted with a world where anti-terrorism and the efforts to rid the world of terrorists will continue, for at least the foreseeable future. How effective these efforts will be, is another issue.

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IRAQ: OPERATIONAL DILEMMAS FOR HUMANITARIANS

As the world's attention is focused on the reports of the UN weapons' inspectors in Iraq and the build-up of troops in the region, behind the scenes, there is a whole other side to the story. Never before has humanitarian planning and preparedness been so controversial or hotly debated, at least in UN circles. Humanitarian action exists by the virtue of war and war in Iraq is not an option, at least not as long as the UN Monitoring, Verification, and Inspection Commission (UNMOVIC) has not completed its task — or so the argument has gone in the UN.

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SPECIAL ICVA CONFERENCE ISSUE

NGOs in a Changing World Order: Dilemmas and Challenges

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The speed with which anti-terrorism measures and the label of the war on terror are being used and implemented has meant that NGOs have not, collectively, been able to take a step back and really examine the impact of such measures on their work and on the lives of those with whom they work. A serious question facing NGOs is, do we simply accept the government policies that are being put into place to combat terrorism and adapt to the changing environment that results? Or can we continue to hold up human rights and humanitarian principles in the face of measures that are aimed at degrading them? There is no one answer, and definitely no easy answer, but there is a need for NGOs to seriously reflect on the challenges and dilemmas that they face.

The reflection that NGOs must undertake should be an open and honest one that should take place at different levels at the same time. First of all, there is a need for NGOs to engage in an inter-active debate with their constituencies and stakeholders, if they are to be able to carry out their work in a manner that is reflective of what their constituencies expect them to do. After all, NGOs only exist because they are a reflection of civil society and are rooted in various parts of civil society.

Secondly, and concurrently, a self-reflection within NGOs should help them to determine how they will deal with the changing world order. What new policies will they develop? How will they adapt to the changing environment? Is there still the space for independent non-governmental action?

Meanwhile, the reflection should also involve other NGOs because there is an interdependence that NGOs cannot escape. A particular strength of the NGO community is to be transparent about the dilemmas that they face together. The responses found to these dilemmas may be somewhat different, but the challenges are the same.

If there is a war in Iraq, it could serve, sadly, as a case study for each of the three sub-themes of the ICVA Conference. This Special Conference Issue of *Talk Back* serves as background documentation for each of the sub-themes. At the

same time, the case studies and introductory pieces to those case studies are meant to draw out some challenges and dilemmas that must be tackled — not only in the context of the ICVA Conference, but more generally, as well. They are meant to provide “food for thought.” They bring together some examples that will help to stimulate creative thinking on ways to move forward with these particular cases. They should also inspire more innovative means to tackle the dilemmas and challenges more generally. The status quo will no longer suffice as an adequate response.

The first sub-theme, *The Increasing Presence of Military Forces and the Independence of NGOs*, is an issue that will have to be confronted immediately with regards to Iraq. There is a clear risk that humanitarian operations will be controlled by the US military (see article on Iraq in this issue of *Talk Back*). Yet, there are lessons that can be learned from previous, and ongoing, situations where NGOs and military forces find themselves working in the same area. The case studies on Afghanistan and the Democratic Republic of the Congo provide two examples of the impact that military forces can have on the independence of NGOs.

The second sub-theme examined is *The Strategic Value of Forgotten Crises: The Determining Factor?* Afghanistan, for years, was a so-called “forgotten crisis,” but once there was a strategic interest of rooting out terrorism in Afghanistan, action was taken to topple the Taliban. But what about other “forgotten crises”? What and who determine the strategic value of a crisis? What can be done to change that perception? The case studies on the Rohingyas, the Burmese refugees in Thailand, and Burundi, provide examples of situations that are “forgotten.” Is there any hope of these situations being addressed, given their lack of a strategic value?

The final sub-theme, *The Effects of the Changing World Order on the Protection of Displaced Persons and Migrants*, examines two different cases: the policies of the US and of Australia. While the basis and reasoning for their increasingly restrictive asylum and migration channels have different roots, the outcomes of those measures work to undermine the rights of displaced persons and migrants. Are there ways that such measures can be countered?

The ICVA Conference is meant to stimulate debate and discussion on these sub-themes within the context of the overall theme. It is also hoped that the challenges and dilemmas presented here, and highlighted through the various case studies, will encourage such reflection to take place elsewhere. ♦

Talk Back Editorial Team

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Iraq: Operational Dilemmas for Humanitarians

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From a humanitarian point of view, however, much can be said about this line adopted by the UN Secretary-General (SG). His ban on open UN contingency-planning for humanitarian assistance, which seems now to be softening, may have been counter-productive.

...humanitarian preparedness and contingency planning do not necessarily mean that a humanitarian organisation is resigned to war.

Representatives of the UN refugee agency, UNHCR, have repeatedly been saying that the agency will not be ready in the case of a war. There is not enough money to buy adequate supplies and pre-position stocks in the region. Some donor agencies have taken the position that they will not provide a penny before the first bomb is dropped.

However, humanitarian preparedness and contingency planning do not necessarily mean that a humanitarian organisation is resigned to war. In fact, one could argue that humanitarian agencies always need to be prepared for any calamity.

As a result of the UN humanitarian wing's inertia, military forces that want to supplement their bombs with food packets, and that will call this humanitarian assistance, have all the more freedom to do so.

UN agencies and NGOs must now urgently address several crucial issues, preferably before a war breaks out, since the SG's orders have prevented a genuine inter-agency dialogue from taking place. The initiative of the Swiss government to organise a high-level meeting on 15-16 February in Geneva, at short notice, to discuss the humanitarian consequences of a war in Iraq is as timely, as it is welcome.

First signs, however, indicate that several seats at the meeting may go unfilled and that the UN may now do its own planning for humanitarian consequences, but in the context of the Security Council. Despite these hurdles, it is hoped that the meeting will still discuss some of the following crucial issues that will confront the humanitarian community in the case of a war.

Humanitarian and the Military

As described in this issue's special section on ICVA's Conference, which will also discuss the relationship with the military, the crucial question for humanitarians is how, if at all, they should relate, to the combatant forces that deliver assistance. One criterion for taking such a decision will be the question of who is in control of humanitarian operations. US forces are presently establishing a Humanitarian Operations Center (HOC) with the full cooperation of the Government of Kuwait. Reports of talks with Kuwaiti authorities and US officials confirm that this Center, which will be staffed by US military personnel, will be the exclusive channel for the entire humanitarian community operating out of Kuwait. Satellite HOCs are being negotiated in Jordan and Turkey. So far, the UN has declined the offer to place a person in the HOC in Kuwait. Earlier reports suggested that some US-based NGOs may be willing to send an observer to the HOC.

There is the distinct possibility that the military will dictate humanitarian operations and that agencies will fall under their control. Humanitarian agencies that follow this path risk becoming part of a 'service après vente' — an orchestrated exercise to clean up the serious consequences of the war.

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Occupying Power

The dilemma on the interface with the military, however, seems to be further compounded by the possible activation of the (legal) concept of an Occupying Power. For this concept to be applicable, there is more required than effectively controlling large parts of a country. As a prominent international lawyer recently observed at a meeting organised by the Humanitarian Policy Group of the London-based Overseas Development Institute (ODI), "an Occupying Power has its own system of laws in operation and its own system of administration, which displaces the pre-war existing system. So there is a threshold beyond which control becomes occupation."

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If, however, there will be an Occupying Power in Iraq, according to International Humanitarian Law, these forces have the duty to ensure the food and medical supplies of the population. The Occupying Power, however, may decide to discharge this responsibility to humanitarian agencies. As was observed in the ODI/HPG meeting, "it then becomes an ethical issue, and a matter of judgement on the part of humanitarian actors themselves."

In informal meetings, the International Committee of the Red Cross (ICRC) has taken the line that it does not oppose military forces delivering assistance, although this assistance should not be labelled as 'humanitarian.' It is part of a military campaign and, therefore, cannot be impartial. This message, however, can be easily sold within humanitarian constituencies. The question is whether or not the affected population will make this essential distinction. It looks certain that the public information machinery of the military will not make the distinction.

Whether Occupying Power or not, the US-based NGO network InterAction has made it known that US NGOs are deeply disturbed about the plans of the US government to designate the Pentagon to take the lead in all aspects of post-conflict activities in post-war Iraq.

Coordination and UN Leadership

In such a politicised environment, many NGOs will look to the UN for leadership. As expressed by the President of the International Rescue Committee (IRC), an ICVA member agency, following a letter from IRC to the UN SG in January, "the UN is the only banner under which the majority of aid agencies, donors, and border States can work together effectively and independently of the military forces involved in the conflict." The problem as signalled

earlier is, however, that the UN agencies are not (yet) able to publicly manifest humanitarian leadership.

Given the political problems, since the end of last year, the UN agencies have been forced to find alternative routes for engaging in planning activities and inter-agency discussions. At the same time, stories were leaked to the international press and a UN document with initial scenarios appeared on a UK-based website.

The most benign, semi-official, channel for the UN agencies has been the inter-agency group on contingency planning, which is formed by different agencies' logistics officers and operational staff. But these are not the folks that discuss policy and coordination dilemmas. As a consequence, all the planning that was done until recently focused on technical matters, rather than on the bigger policy issues. There is a realisation within the UN that there is a need to move these discussions from operational matters to policy issues quickly.

Probably the biggest challenge for the humanitarian community will be to ensure adequate access and protection to the people that will become (further) displaced by a war.

Fortunately, all is not entirely lost in terms of humanitarian coordination. The UN Humanitarian Coordinator for Iraq is respected by many different humanitarian actors, including NGOs, for his leadership and management in other countries. His outspokenness and non-conventional way of working may significantly help the UN system in asserting who is in charge and in creating a healthy environment for inter-agency collaboration.

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Refugees and Internally Displaced Persons (IDPs)

Probably the biggest challenge for the humanitarian community will be to ensure adequate access and protection to the people that will become (further) displaced by a war. At present, it is estimated that between 700,000 and one million people are already displaced within Iraqi borders, of which most are found in the North, because of the government's continued policies of expulsion. The number of IDPs in the event of a war might rise to two million, according to UN estimates.

UNHCR has publicly stated that it is preparing to assist and protect 600,000 refugees who may cross the borders of Iraq's neighbouring countries, but UNHCR officials indicate that this figure is one of several internal planning figures. The real numbers could be very different.

A major factor will be the ability of people to flee hostilities and the extent to which borders will be open for them. While UNHCR confirmed publicly last week that no government in the region has categorically said "No" to the agency's request to keep their borders open, rumours are that, at least, Turkey, Kuwait, Jordan, and Saudi Arabia may keep their borders closed to refugees. Turkey, in fact, has made it clear that its military will set up some 12 camps, initially in Iraq only, and based on needs, at a later stage perhaps another six camps in Turkey.

In most scenarios, it is expected that refugees will settle in border areas, which, telling from past experiences elsewhere, is clearly not a viable option. The current experience with Afghans in Southern Afghanistan (see related article on "Short Distances, Big Difference" in this issue of *Talk Back*) does not provide an example of best practice and might serve as a lesson to be learned. So far, UNHCR has said that it will not become operational for Iraqi IDPs, particularly not for those people that might be stranded further in-land, as this may conflict with its mandate

and its desire to keep the borders open. One element in convincing the neighbouring countries to keep their borders open will be early signs of willingness on the part of Western States to engage in arrangements for "responsibility-sharing," i.e. accepting numbers of refugees under a temporary evacuation scheme, as was done in the case of Kosovo.

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In the UN system, negotiations, facilitated by the OCHA IDP Unit, are underway to come to an agreement in terms of who does 'what' for 'whom'. One important step, in this regard, will be the deployment of an IDP expert in the office of the Humanitarian Coordinator as soon as possible.

NGO Operations and Registration

The governments of Iraq's neighbours seem not to have forgotten the 1991 experiences with international NGOs. International NGOs have been accused of having second agendas, particularly on the human rights side. Reportedly, one government recently stated that they did not want to see 'NGOs without borders' operating. Whatever the reality will be for NGOs, it is clear that some level of control will be exercised over them and their numbers may be kept to a minimum.

It has been reported that in Jordan, for example, all international NGOs that want to start operations have to go through the Hashemite Charity Organisation. Other governments have said that they want only NGOs 'recognised' by the UN. If this recognition is to come from the ECOSOC accreditation system for NGOs, they are apparently unaware that it is entirely ill-suited and not designed for humanitarian operations. It might be wiser for these authorities, instead, to look at NGO legislation and registration procedures as established in other countries and to work with the UN and established NGOs together to develop a system for NGO registration and accountability. ♦

** The report of the meeting on Iraq organised by the Humanitarian Policy Group of the London-based Overseas Development Institute is available on ODI's website: <www.odi.org.uk/hpg>.*

SHORT DISTANCES, BIG DIFFERENCES: THE AFGHANISTAN/PAKISTAN BORDER

By MSF Holland

A remote part of the border region in Southern Afghanistan, no more than ten kilometres square, raises all the issues around the inequities of displacement. During the bombing campaign in 2001, large numbers of people fled to the Southern Afghan province of Kandahar. Following the fall of the Taliban, many Pashtuns from the North of Afghanistan had to leave their homes due to harassment, persecution, and discrimination at the hands of Tajiks and Uzbeks. The ongoing drought in the South continued to cause the further displacement of many people, predominantly Kutchi nomads. Some managed to cross the border; others remained on Afghan soil. The same groups of people ended up in different areas and, because of that, received a different status.

Of these displaced, more than 35,000 lived as internally displaced persons (IDPs) in camps near the town of Spin Boldak in Afghanistan. Just a few kilometres away, on the other side of the Pakistani border, approximately 70,000 live in official UNHCR refugee camps near the border town of Chaman. Literally sandwiched in-between the two areas is the so-called 'waiting area.' This area was formed when Pakistan

The irony of the situation facing the displaced in this region is that having crossed a line or having not crossed a line makes an enormous difference.

closed its border in February 2002, leaving approximately 25,000 Afghans stuck in a 'no-man's land': non-registered refugees who were legally on Pakistani soil. Basically, the closure of the Pakistani border resulted in a situation, which still exists today, where various displaced communities within a ten square kilometre area are receiving significantly different levels of assistance and protection.

The refugees in the camps near Chaman are relatively better off. In those camps, a number of different NGOs are working together in a relatively organised manner and UNHCR is providing a

certain level of protection. Food distribution is regular and a winterisation process had prepared the refugees for the cold months.

The refugees in the 'waiting area' have had a different experience. Initially, in an attempt to prevent a camp from forming, the Pakistani authorities pursued a deliberate policy of limiting levels of assistance. But as the summer months progressed, the public health risks increased. With the town of Chaman less than a kilometre from the area, the authorities could ill afford the risk of an epidemic outbreak and gradually the limitations to assistance were reduced. The assistance in the waiting area is not up to 'international standards,' but the people have one factor on their side. Their presence on Pakistani soil means they are afforded a certain level of protection by UNHCR Pakistan and assistance from the various NGOs operating from Chaman.

In Spin Boldak, the story is different yet again. The IDP camps in Spin Boldak first hit the headlines in November 2001, when reports filtered out of Afghanistan of large numbers of displaced persons fleeing the bombing who had gathered in terrible conditions in the area close to the Pakistani border. Some two months ago, the displaced of Spin Boldak were in the news again due to the sad deaths of 10 people, the majority of whom were young children. These deaths coincided with an unusually cold period. The displaced had not received assistance to prepare them for the cold winter months.

The situation has been marginally improved following the deaths, which coincided with an unusually cold period. Sufficient assistance to prepare for the winter had not been provided. Prior to the deaths, food distribution had been sporadic and unreliable. Water supplies and sanitation facilities are very bad and there is a lack of adequate health referral facilities. Following the withdrawal in June 2002 of the Islamic NGOs active in the camps, MSF, already providing basic health care in one of the camps, scaled up its activities. Lobbying efforts, primarily directed at UNHCR and WFP, but also at other

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NGOs were increased with the objective of getting them involved in supporting the camp population. However, it was only after the deaths in December that different international actors finally responded, distributing emergency assistance.

The primary obstacle to increased levels of assistance lies with the Afghan authorities, as they are ultimately responsible for the IDPs. They view the IDP camps as a security threat due to their proximity to a border crossing where the primary form of economic activity is smuggling in everything from shampoos to arms and drugs. In addition, the authorities are concerned about a potential regrouping of Taliban and other extremist groups in the camps. The authorities want the IDPs to leave and the camps to disappear and have, thus, been deliberately limiting assistance.

The only solution that has been offered to the IDPs of Spin Boldak and the refugees in the waiting area, other than assisted return, is relocation to a new camp about 25 km West of Kandahar, called Zhare Dasht, which literally means 'yellow desert.' The name is apt: it is a windy, dusty, drought-affected plain, with few amenities other than the tents, wells, and MSF clinics that have recently been erected there. There is no opportunity for the people to supplement the limited assistance provided by earning some money, as is possible in Spin Boldak, because the nearest town is too far away. On top of this, recent clashes in the region, the biggest for months, between the US-led Coalition Forces and rebel forces, may further add to the growing complexity of how to ensure adequate protection and assistance in this part of Afghanistan.

To date, the IDPs and refugees of Spin Boldak and the waiting area, respectively, have been reluctant to relocate. Given the conditions they

were living in, it is no surprise that ultimately the majority of the displaced in the Spin Boldak camps have chosen to go to the new camp, leaving a residual population of 15,000. The population in the waiting area is hanging on for longer, fully aware that their presence on Pakistani soil, however tenuous, gives them a certain profile. For the population in the Chaman camps, it remains to be seen how long their presence on Pakistani territory will be tolerated.

The irony of the situation facing the displaced in this region is that having crossed a line or having not crossed a line makes an enormous difference. NGOs, like MSF (which is working in the Spin Boldak camps, the waiting area, and the Chaman camps), are trying to do the best they can to provide assistance. In addition they lobby the respective authorities and UNHCR, as the UN agency responsible for IDPs in Afghanistan, to ensure that the immediate needs are met and that

any future solution will be implemented on the basis of the refugees' and IDPs' free choice.

At a conceptual level, what the situation in this region also highlights is the fact that having crossed a line

should not be the exclusive factor in determining the levels of protection and assistance. Neighbouring States and the international community as a whole should ensure that in the future, situations such as this one do not arise. Organisations, such as UNHCR and, for example, the IDP Unit in the UN Office for the Coordination of Humanitarian Affairs, should also do their utmost to prevent a similar situation. After all, regardless of their locations, IDPs and refugees should receive adequate protection and assistance. ♦

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THE FIGHT OVER “MILITARY-HUMANITARIAN” GUIDELINES

No humanitarian organisation operates in a vacuum: the actions of one organisation, whether UN or non-UN, undoubtedly affect the others in the same environment. It is this thinking that, in the past, has prompted UN and non-UN agencies to try and better address issues, such as staff security, together. It is this interdependence that has led to a fight to ensure that humanitarian principles are not compromised when it comes to using military and civil defence assets (MCDA) in complex emergencies.

No humanitarian organisation operates in a vacuum: the actions of one organisation, whether UN or non-UN, undoubtedly affect the others in the same environment.

The effort to draft guidelines on the use of MCDA in complex emergencies has turned into a seemingly endless back and forth battle between humanitarians and governments. Humanitarian organisations have been trying to ensure some basic tenets are included in the guidelines, in order to preserve the impartial and independent nature of humanitarian action, while some governments (or, more correctly perhaps, their ministries and departments of defence) do not seem to understand the necessity to ensure that humanitarian principles are not compromised in any use of MCDA.

It is irrefutable that humanitarian actors will increasingly come into contact with military forces in the context of complex emergencies. If there is a war in Iraq, the military will be all too present.

Without ensuring that certain basic principles are included when considering using MCDA, there is the risk that the lines between humanitarian actors and the military become further blurred — at the expense of the population in need.

In the eyes of many representatives from both sectors, guidelines on when and when not to use MCDA could be helpful in the field. The first and most important issue to highlight is that military assets should only be used as a last resort.

Furthermore, any such guidelines cannot, and should not, attempt to address the more complicated issues related to the whole humanitarian-military interface. Issues such as task division, information-sharing, and coordination are all areas that can not be treated lightly when it involves humanitarian and military actors.

The attempt to draw up a set of guidelines for the use of MCDA in complex emergencies has been ongoing for over two years. Facilitated by the Military and Civil

Defence Unit (MCDU), based in the UN's Office for the Coordination of Humanitarian Affairs (OCHA), the drafting and review processes have involved States and the Inter-Agency Standing Committee (IASC). But right from the beginning, the idea was to have the guidelines endorsed/approved by the IASC — the UN's humanitarian coordination body, which takes decisions based on consensus.

Without ensuring that certain basic principles are included when considering using MCDA, there is the risk that the lines between humanitarian actors and the military become further blurred — at the expense of the population in need.

Both the drafting and review processes, however, seemed to be dominated by States - and often by defence ministries, not humanitarian or development ministries (see *Talk Back* 3-1, “Military Finds the Right Forum”). At a meeting of the Advisory Panel of MCDU (composed of IASC members, as MCDU is an IASC creation) in June 2001, it was agreed that primary ownership of the guidelines document was to “rest with the UN.” Why then should a document that is meant to “rest with the UN” not be based upon

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IN THE NEWS

The Fight Over “Military-Humanitarian” Guidelines

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consensus within the UN’s humanitarian coordination body?

The drafting and review process, “facilitated” by MCDU, had some major drawbacks, to say the least. There was a lack of transparency in the drafting process with new versions seemingly coming out of nowhere. There was little or no explanation as to why some comments were accepted while others were not. Meeting dates were changed several times, with substantial overlap with other meetings, making participation in them difficult. The review process did not take into consideration serious comments made by members of that committee. In the end, what was presented to the IASC was not a document that met with the satisfaction of all the drafting or review committee members. It was particularly not to the satisfaction of several of the humanitarian agencies participating in these committees.

When the document finally came to the IASC Working Group for endorsement, it failed to highlight crucial aspects that would ensure the impartiality of humanitarian action. There were three points that were insisted upon by some in the IASC: the need for MCDA to be used only as a last resort; the necessity for civilian control of MCDA; and the principle of not accepting MCDA from belligerent forces. There was a feeling that any guidelines that did not give enough emphasis to these vital issues would only serve to jeopardise humanitarian action.

Using military assets could lead to a confusion about the impartiality and independence of humanitarian action in a complex emergency and, as such, should only be used as a last resort.

If the situation arises where using military assets is the only alternative, then the use of those

assets must not compromise the civilian control of the humanitarian operation. At no point must military forces decide how to implement a humanitarian operation or decide where any MCDA would be used best. Such decisions must remain in the hands of humanitarian actors.

The third point that required clarification in the guidelines was that, in principle, MCDA should not be accepted from belligerent forces. Using the assets of a force or unit that is actively engaged in combat can serve to seriously compromise the independence of humanitarian action. By using the assets of a warring party, a humanitarian organisation runs a serious risk of affiliating itself with one side of the conflict — a step that can undermine the legitimacy of humanitarian action and that can endanger the trust of the populations with which humanitarians are working.

Why...should a document that is meant to “rest with the UN” not be based upon consensus within the UN’s humanitarian coordination body?

The insistence of the inclusion of these issues was an effort to make the best of a poor document, which gives too much weight and importance to the military in humanitarian operations. Any military assets that are used in a complex

emergency should support the work of humanitarians, not provide the military with something to do. As such, the efforts of the IASC were part of an exercise that could be called “Operation Damage Control.”

Now, the question that remains is where will the process go? Hopefully, the document on which there was IASC consensus will be accepted by member States. However, attitudes of certain governments, which are more reflective of military perspectives, seem to point in another direction. Even if those States cannot understand the importance of independent and impartial humanitarian action, the IASC has a responsibility to ensure that humanitarian action is not compromised. ♦

SPECIAL ICVA CONFERENCE ISSUE
NGOs IN A CHANGING WORLD ORDER: DILEMMAS AND CHALLENGES

THE INCREASING PRESENCE OF MILITARY FORCES
AND THE INDEPENDENCE OF NGOS

The ten-year-old debate on the role of military forces in the provision of humanitarian assistance is entering the next episode: what should be the relationship of humanitarian agencies with military forces that are taking part in the hostilities, i.e. combatants? In addressing this issue, humanitarian agencies are keen to point to their principles of neutrality, impartiality, and independence. A military force that is a party to the conflict cannot maintain these principles and should, therefore, not encroach on the humanitarian domain.

As Jane Barry of Save the Children UK points out: humanitarian agencies and parties to the conflict do not have shared aims. "A humanitarian agency's aim is to impartially protect lives. Combat forces seek to win the war." (Jane Barry, "Cooperation in Combat: Emerging Challenges to Humanitarian Protection," paper available on ICVA's website shortly.)

As simple as it may be, the story does not end with this answer. As described in the ACBAR case study on Afghanistan, in spite of strong criticism from NGOs and other humanitarian agencies, the US-led Coalition Forces have engaged in humanitarian work through the Provincial Reconstruction Teams (PRTs).

In this sense, not only does it seem that the military involvement in humanitarian assistance is here to stay, but it also appears that it is the military (and their bosses: the politicians) who will decide on how and on their own terms, regardless of what humanitarian agencies say. As practice shows, the trend of military forces that are delivering assistance moves on as a steamroller. Afghanistan was just a

testing ground for several new concepts, including the practice of combining bombs with food packets: something, which falls entirely short of what humanitarian agencies define as humanitarian assistance. However, this trend, and the attempt to portray it as a humanitarian act, will probably not be limited to Afghanistan.

At the same time, the leverage of humanitarians on political and military actors is marginal. The experiences in the context of the European Convention point to an intentional blurring of roles and identities. While the EU's humanitarian office (ECHO) has been trying to keep the humanitarian sphere separate from the political reality, one of the main 'reasons d'être' of the EU's rapid reaction force, which is in the making, seems to be to deliver humanitarian assistance. The draft Convention

documents let the political pillar prevail and make humanitarian assistance just an instrument in the EU's foreign policy.

On the public front, NGOs seem to have lost the battle too: public opinion generally supports military involvement in humanitarian aid and journalists (and military) increasingly wonder why NGOs invoke the principle of neutrality, as they believe that many humanitarian NGOs themselves have not been neutral by including advocacy in their mandates. NGOs need to make clearer that advocacy and neutrality are not contradictory.

In view of the trend of increased military involvement, the question becomes, what should humanitarian agencies do to try and maintain some influence over humanitarian space? Both

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**The Increasing Presence of Military Forces
and the Independence of NGOs**

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in the case of Afghanistan, and now in the case of humanitarian planning for Iraq, they have been offered a seat in the military-led command centres or coordination cells. Does acceptance of such a place not immediately concede primacy over humanitarian coordination to the military and/or the abandonment of independence?

There are also suggestions from some parts of the NGO community to establish further guidelines for relations with the military, particularly with those forces engaged in combat. Is this a good or bad idea? On the one hand, the creation of such guidelines may imply the institutionalisation of a relationship: one that many would think should remain exceptional. On the other hand, as it would be foolish to create guidelines without the involvement of the military as the negotiations on the relationship might eventually limit further encroachment of the military on the humanitarian domain by demarcating the two domains.

In view of the trend of increased military involvement, the question becomes, what should humanitarian agencies do to try and maintain some influence over humanitarian space?

Whatever the relationship will be, it might be worthwhile not to forget about the numerous experiences that military and humanitarian actors have had with each other since Operation Provide Comfort for the Kurdish population in 1991. There seems to be a growing belief, both within the military and the humanitarian communities, that, while the Afghanistan-type of 'humanitarian' operation

is (still) controversial, the humanitarian involvement of the military either for 'pure' humanitarian reasons (such as in Northern Iraq and Turkey in 1991 or in Goma in 1994) or in peacekeeping or peace-enforcement missions, has become accepted practice.

...it seems important to look at the various experiences with forces and to learn lessons regarding policy and coordination issues, such as the political-humanitarian interface and the question of who is in control, as well as on practical questions, such as the carrying of arms by these forces and the long-term impact of the direct involvement of the military in relief operations.

The case study on MONUC (the UN peacekeeping force in the Democratic Republic of the Congo) in this issue of *Talk Back* speaks to this point. NGOs have different views and attitudes on how close their relations with MONUC can be. While many use MONUC's transport and other facilities, there is also the fear that if MONUC gets sucked into the conflict, it will be problematic to continue to maintain the trust of the local population and to deliver assistance in an impartial manner.

On this basis, it seems important to look at the various experiences with forces and to learn lessons regarding policy and coordination issues, such as the political-humanitarian interface and the question of who is in control, as well as on practical questions, such as the carrying of arms by these forces and the long-term impact of the direct involvement of the military in relief operations. The outcome of such a lessons-learned exercise may well be that, essentially, 'military humanitarianism' remains a contradiction in terms. ♦

THE INCREASING PRESENCE OF MILITARY FORCES AND THE INDEPENDENCE OF NGOS

CASE STUDY: NGO REACTIONS TO MILITARY INTERVENTION IN HUMANITARIAN ACTION IN AFGHANISTAN

By Paul O'Brien and Barbara J. Stapleton

In a follow-up to his State of the Union Address, US President George Bush pointed to Afghanistan as a model for international intervention in the post-11 September world. He spoke with pride about the commitment of the US military to help Afghans rebuild their country. A few days earlier, at the World Economic Forum in the Swiss ski-resort Davos, US Secretary of State, Colin Powell, referred to the United States' continuing engagement in Afghanistan's reconstruction as a precedent for Iraq. The message is clear: supporting reconstruction in Afghanistan is a key element in current US foreign policy.

The US-led military Coalition in Afghanistan now has a new vehicle for this policy: through the deployment of Provincial Reconstruction Teams (PRTs) throughout Afghanistan, the Coalition plans to shift its focus from the search for al-Qaeda remnants to the reconstruction of Afghanistan. Two pilot PRTs began their work in December (in Gardez and Bamyan) and six more will be deployed in the coming months. The stated aims of the PRTs are both political and security related: they are intended to extend the legitimacy of the central authorities beyond Kabul and improve security in areas where they are operating.

Current estimates for PRTs number approximately six hundred, mainly military staff, with a budget of \$6-12 million for reconstruction projects identified by PRTs in 2003: a tiny percentage of the estimated reconstruction needs in Afghanistan. However, the PRTs will work closely with USAID and projects identified by PRTs will draw on USAID and other funding sources. Early references linking PRTs to a coordinating role in the overall assistance effort have now been dropped. However, PRTs will be conducting needs assessments, information-gathering and dissemination, and will offer a facilitating role to NGOs, including project identification and possible funding.

The officers of the civil-military affairs teams, which are operating in the PRTs, will be dressed in uniform, while they are said to 'soften' their appearance by wearing baseball caps or using non-military vehicles. These teams hope to work closely with local and international humanitarian agencies and with the UN system and the Afghan Transitional Authorities in an effort to catalyse reconstruction efforts in Afghanistan, which, it is feared, are drifting.

The reaction of NGOs in Afghanistan has been one of deepening concern. Following an early presentation of the PRT concept in Kabul in December 2002, more than forty NGOs gathered to discuss these concerns and to formulate a response. They did so in the context of the Agency Coordinating Body for Afghan Relief (ACBAR), which is one of the main NGO umbrella groups in Afghanistan.

At the heart of their discussions lay fears that humanitarian aid would be used to achieve political and military aims that would undermine the core principles to which most NGOs are committed — neutrality, impartiality, and independence. NGOs did not want to be used for intelligence gathering or to be associated with activities that could be interpreted by Afghans as such. International NGOs with local partners reported that local staff were voicing legitimate security concerns about Coalition-led PRTs operating in their areas, given the unpredictability of the future in Afghanistan and their inability to leave the country should the Bonn peace process break down. The staff of international and national NGOs thus viewed an engagement with PRTs as potentially harmful to their security and the security of the communities they serve in the long-term, given the potential compromising of their impartiality.

Consequently, NGO members of ACBAR developed an initial position paper articulating core concerns and recommendations. This paper resulted in meetings being held with General McNeill, the military head of the Coalition Forces, the UN, and other policy-makers. Throughout December and January, NGOs continued to meet regularly on this topic, facilitated by ACBAR.

Anecdotal reports of problems with military-provided assistance began to flow in. Some spoke of Coalition teams offering free services in communities, undermining cost-sharing arrangements that NGOs had been working on for years. Others told of needs assessments conducted by male military personnel who never met with women and had little or no historical knowledge of the communities with which they were engaging.

At the same time, it became clear that policy-makers in Washington, DC had also their rationales for the PRTs. NGOs heard, at different times, different stories: that PRTs were here to help carry out the war on al-Qaeda; to

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THE INCREASING PRESENCE OF MILITARY FORCES AND THE INDEPENDENCE OF NGOs

Case Study: NGO Reactions to Military Intervention in Humanitarian Action in Afghanistan

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empower the Karzai government; to improve security in the regions; to gather intelligence; to fix a reconstruction effort that was not making enough progress; to coordinate aid interventions; and not to coordinate, but to facilitate, a better coordinated aid response.

In response to these developments, NGO members of ACBAR put together a second position paper, this time raising concerns based on early experiences with the pilot PRT operating in Gardez, in eastern Afghanistan, and their growing understanding of the PRT concept. Concerns fall into two broad categories: issues of clarity and concerns regarding implementation.

Specifically, NGOs are urging that the coalition clarify: (1) the purpose of the PRTs, particularly their political and security-related goals; (2) the legal framework for the PRTs, given that, as yet, no clear accountability mechanism has been articulated; (3) how the PRT mechanism significantly will enhance security as PRTs only include a protection force designed to get the PRTs out of any possible trouble; and (4) the human rights protection function of the PRTs, if any. Official presentations of PRTs have not included any explicit commitment to the provision of a policing or peacemaking function in the areas where it is proposed to deploy them.

Concerns raised by the aid community regarding the implementation of PRTs include: (1) the need to involve the Afghan authorities more in the selection, design, and implementation of reconstruction projects (at the time of writing, the Afghan Transitional Authority will shortly be publishing a paper on PRTs); (2) how the PRT initiative will be integrated with the existing government/UN coordination structure; (3) the capacity of the PRTs' civil-military affairs teams to identify and address the long-term needs of communities; and (4) the absence of clear guidelines on how military and civilian reconstruction efforts will be demarcated from each other. The latter is of particular concern given the fact that the Coalition, under whose auspices PRTs are being deployed, is on a war footing in Afghanistan.

In the view of most NGOs, the military should focus on what they are essentially qualified to do: address the deteriorating security situation in Afghanistan. If the Coalition

does extend civil-military affairs from the Quick Impact Projects — which are aimed at establishing force security and have consisted mainly of the reconstruction of school buildings and the provision of wells for drinking water — into reconstruction and development work, NGO concerns fall into two categories.

The first group of NGOs support working directly with the military as a means of minimising the potentially negative impact of PRTs and is calling for PRTs to be led by civilians with transparent accountability mechanisms. They have suggested a code of conduct for NGO engagement with the military.

Other NGOs, which fall into the second group, continue to believe the best approach is not to engage with PRTs at all in an effort to protect their relationships with communities and their reputations as impartial, independent agencies. This group hopes that the whole PRT plan will prove to be nothing more than a storm in a teacup. These NGOs are not alone in voicing alarm. Other actors, including the International Committee of the Red Cross and UN agencies, have also raised concerns that the PRT developments further erode humanitarian space.

This position marks a sharp contrast with a small third group of NGOs, which have also asked “what’s the problem?” They applaud the PRT intervention as one more much-needed contribution in an under-resourced context. Some NGOs, mostly local Afghan ones, are contracting with the Coalition to implement those projects. As yet, of the 200+ international NGOs in Afghanistan, none have officially endorsed the PRT concept.

With the Coalition linking the PRTs as a model for future ‘military humanitarianism’ elsewhere, and with the Iraq war looming, humanitarian NGOs cannot afford to just ignore what is taking place or pretend that it is a one-off experiment that will just go away. We must continue to raise our voices in defence of our principles and resist encroachment by military actors on humanitarian space. ♦

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THE INCREASING PRESENCE OF MILITARY FORCES AND THE INDEPENDENCE OF NGOs

CASE STUDY: MONUC-NGO RELATIONS IN THE DRC

By Stephen Blight

The United Nations Organization Mission in the Democratic Republic of Congo (MONUC) was established in 1999 to assist in the implementation of the Lusaka ceasefire accords. Its mandate includes the monitoring of the ceasefire and the withdrawal of foreign troops, the facilitation of the voluntary disarmament and demobilisation and repatriation of foreign armed groups operating within the DRC. In December 2002, the Security Council approved the extension of MONUC's forces to 8,700 military personnel.

Since the establishment of MONUC, some humanitarian agencies have been concerned that if the difference between military and humanitarian actors is not clearly established, the two types of interventions may become blurred. The perception of the authorities and the population could then be that humanitarian actions and military actions are one and the same thing, and that both are linked to the peace process and the Lusaka ceasefire accords.

The blurring of roles could restrict, rather than enhance humanitarian actions; could threaten the principles of neutrality, impartiality, and independence; and could worsen the security of humanitarian staff. Should the population or the authorities of various rebel groups develop hostility towards MONUC's presence, the fear is that humanitarian access will be likewise threatened. As an example, in communities where there are few private vehicles and MONUC is highly visible, the locals do not distinguish between white Toyotas with UN markings and those carrying an NGO sticker.

Broadly speaking, however, MONUC has been successful in maintaining the support of the different parties to the war and its presence is usually welcomed by the population. However, the fragility of this support was demonstrated in May-June 2002, at the time of the massacres that followed the attempted mutiny in Kisangani. On one hand, the perceived impotence of MONUC to

protect civilians in the face of these massacres brought about considerable disillusionment on the part of the population; on the other hand, a MONUC report critical of the role in the massacres of the Congolese Rally for Democracy (RCD), based in the Eastern Zairian town of Goma, led to a fall-out in their relations and the expulsion of several UN staff from RCD-Goma territory. Such difficulties are inherent in its role and illustrate the vulnerability of MONUC.

In addition to its military role, MONUC has a civilian branch that includes public information, human rights, child protection, gender, humanitarian activities, and Quick-Impact Projects. Cooperation between NGOs and these sections occurs at many levels and, despite some difficulties mentioned in informal conversations with different NGO representatives, is, on balance, positive. Some examples include: transport of NGO humanitarian cargo and personnel using MONUC aircraft; NGO use of MONUC-sponsored Radio Okapi to transmit information of public interest; some degree of information-sharing mainly on issues of security and, to a lesser degree, on human rights and humanitarian issues; funding of small "Quick-Impact Projects" implemented by NGOs; and NGOs providing training on conflict resolution to MONUC staff.

Overall, MONUC's humanitarian affairs branch seems content to limit itself to a supporting role for humanitarian NGOs. In the NGO side, some collaborate quite closely with MONUC, while, for others, it is quite irrelevant to their activities. Given the Congo's vast territories and poor infrastructure, use of MONUC aircraft to transport personnel and cargo has become critical to the operations of a number of agencies. Others try to maintain a visible distinction between their operations and those of MONUC and, for this reason, are reluctant to use its transport. ♦

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SPECIAL ICVA CONFERENCE ISSUE:
NGOs IN A CHANGING WORLD ORDER: DILEMMAS AND CHALLENGES

THE EFFECTS OF THE CHANGING WORLD ORDER
ON THE PROTECTION OF DISPLACED PERSONS AND MIGRANTS

New plans of the British government, which appeared first in the UK daily "The Guardian" at the beginning of February, aim to cut, by half, the number of asylum-seekers in the UK. These plans would contain asylum-seekers in the region and deport those already in the UK to "UN protection areas." The development of the tough plans may have been prompted by national pressures to introduce powers to deport suspected terrorists, following the recent events in Manchester and London, in which suspected terrorists were arrested who had entered the UK as asylum-seekers.

Issues of "security" and "anti-terrorism" provide convenient frameworks under which to justify and further cement restrictive policies.

Meanwhile, an additional seven countries have also been added to the UK's list of 10 "safe" countries, from which any asylum claims will "presume to be unfounded" and the claimants put on a fast-track to have any claims heard.

These ideas and measures would, *de facto*, mean that Britain would not receive more than 50,000 asylum-seekers per year. This figure is one that is dramatically different than one suggested by the UN High Commissioner for Refugees, Ruud Lubbers, in September 2001, when he suggested that the UK might be able to accept up to 200,000 refugees annually as part of a resettlement scheme.

In the United States, in the wake of the 11 September attacks, a number of policies curbing the rights of asylum-seekers and refugees have also been put into place. Those measures apply on US territory (as seen in the case study that follows), but they are also having an impact on refugees and asylum-seekers elsewhere.

The refugee resettlement programme in the US has meant that thousands of refugees in Kakuma Camp in Kenya, for example, who have already been approved for resettlement, have had to wait months, if not years, for security clearance to ensure that they do not appear on terrorist lists before they can be resettled.

Such increasingly restrictive measures on asylum-seekers are not new. There have been trends that have been chipping away at refugees' and asylum-seekers' rights. In Australia, restrictions were being put into place even before the 11 September attacks, as seen in the Australia case study. Issues of "security" and "anti-terrorism" provide convenient frameworks under which to justify and further cement restrictive policies.

While the starting points behind these policies towards asylum-seekers and refugees may not all lie in the "war on terror," the outcome is the same: a reduction in the rights of people that are in need of protection. What is clear is that the restrictions are

The whole idea of keeping people in the region from which they came, or even sending them back to the region from which they came, raises a range of questions related to the concept of responsibility-sharing.

being further strengthened in response to the "war on terror" in many places. The recent crackdown on "terrorists" in Chechnya has meant the less-than-voluntary repatriation of internally displaced persons (IDPs) by Russian authorities. It is from this common point that ways to confront the challenges must be found.

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NGOs IN A CHANGING WORLD ORDER: DILEMMAS AND CHALLENGES
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on the Protection of Displaced Persons and Migrants**

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The whole idea of keeping people in the region from which they came, or even sending them back to the region from which they came, raises a range of questions related to the concept of responsibility-sharing. The number of refugees arriving in developed countries, is minimal compared to the numbers hosted in African and Asian countries, but developed countries feel that the number of asylum-seekers arriving on their territories is too great.

While the starting points behind these policies towards asylum-seekers and refugees may not all lie in the “war on terror,” the outcome is the same: a reduction in the rights of people that are in need of protection.

Should we not be looking at the reasons behind why people move on from countries of “first asylum” to other countries? Do people move in order to seek adequate protection? Or, as some politicians are suggesting, are these people just abusing the asylum system?

The response of some States to move people off their territories to developing countries seems to be a more simplistic response than what is really required. What are ways of ensuring that the response of governments does not jeopardise or reduce the protection and rights of displaced persons and migrants? How far can a State acquit itself of its own protection obligations by contracting an international organisation or another State (as is the case in the Pacific) to carry out those duties?

In their desire to implement new security measures to combat terrorism, some States, such as

the UK and others, may even go as far as reconsidering their human rights obligations. The ability of governments to reduce the space for dialogue on their human rights obligations by invoking the security argument, should be of real concern to advocates of the rights of displaced and migrants. As the Lord Chief Justice in the UK, Lord Woolf noted to the European Court of Human Rights, “...it is when issues of national security are dictating the actions of the executive and the legislature that the protection of individual rights needs particular attention” (as quoted by the Europe Intelligence Wire, 3 February 2003). But what can be done to create such a space?

The ability of governments to reduce the space for dialogue on their human rights obligations by invoking the security argument, should be of real concern to advocates of the rights of displaced and migrants.

As noted earlier, anti-terrorism measures are not the only reason behind the restrictive admission policies of governments. In other words, there is a real need for NGOs to analyse the impact of the present climate on the rights of refugees and migrants and to find adequate responses that remind governments of their obligations in order to ensure the protection of human rights. ♦

THE EFFECTS OF THE CHANGING WORLD ORDER
ON THE PROTECTION OF DISPLACED PERSONS AND MIGRANTS

CASE STUDY:
THE INCREASING VULNERABILITY OF REFUGEES IN THE US

By Eleanor Acer

In the year and a half since the tragic events of 11 September, the difficulties facing asylum-seekers who seek refuge in the United States (US) have increased significantly. Even before 11 September, refugees faced hurdles in their efforts to win asylum in the US. A 1996 immigration law imposed a new filing deadline on asylum claims and a summary border process, called “expedited removal.” Asylum-seekers subject to this expedited process face mandatory detention and cannot appeal to an independent authority the decision to detain them. They are held in jails and detention facilities across the country.

The US government, in the wake of 11 September, has initiated a barrage of new measures that adversely affect asylum-seekers. These measures include new limits on the immigration appeal process, a “safe third country” agreement with Canada, the expansion of detention, and the transfer of all immigration service and enforcement functions to a new Department of Homeland Security — a transfer that will occur in March.

In February 2002, the Attorney General announced significant changes to the Board of Immigration Appeals, the appeals board that reviews asylum and immigration cases. These changes, which were finalised in August 2002, have drastically limited the ability of the Board to review decisions of immigration judges by expanding the use of “affirmances without opinion” and by limiting the Board’s ability to conduct a complete and new review of the case. As a result, the Board has issued thousands of summary decisions simply “rubber-stamping” immigration judges’ decisions to deny asylum

or other relief, depriving asylum seekers of a meaningful appeal review.

A new “safe third country” agreement between the US and Canada will bar asylum-seekers at the border from seeking refuge in the US if they have transited through Canada and will bar asylum-seekers from seeking refuge in Canada if they have transited through the United States. The exceptions are unduly limited. The new agreement was not needed to improve security along the border; in fact it will terminate the existing orderly border process and will likely undermine security by leaving refugees vulnerable to exploitation by smugglers. The US agreed to enter into the arrangement, which will shift a significant

percent of Canada’s asylum cases to the US in return for other promises made by Canada relating to the promotion of security in the wake of 11 September. In the year

prior to the agreement, approximately 35% of asylum claims made in Canada (14,807 claims) were filed by asylum-seekers who had passed through the US.

Over the last year and a half, the US Department of Justice has taken a number of steps that have resulted in an expansion of immigration detention authority. While the expanded authority provided for in the USA-Patriot Act (a law passed by the US Congress following 11 September) is troubling, at least that law provides for some oversight and access to the federal courts. The Justice Department, however, quickly issued two regulations in late September and October 2001, which dramatically expand immigration detention authority. Over 1,200 Arab, Muslim, and South Asian non-citizens were detained in the initial

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Case Study:
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“sweeps.” The US press and human rights organisations documented disturbing abuse, including lengthy detentions without the filing of immigration charges and the denial of access to counsel. More recently, another 1,200 men were detained after reporting for “special registration” programmes that apply only to men from specifically designated countries.

At the same time, the US detention procedures for asylum-seekers — already a matter of serious concern due to their mandatory nature and lack of independent review — have become even more problematic. Parole for asylum seekers has become even more restrictive in the wake of 11 September. Lengthy delays in the US government’s conduct of security checks have left some asylum-seekers languishing in prisons and detention centres for months or longer. One Sri Lankan woman has been in jail for about 15 months now, even though she is otherwise eligible for release. Asylum-seekers from Arab or Muslim backgrounds, who would have been paroled previously, have been denied parole and detained for lengthy periods.

The US government has also launched a discriminatory detention policy directed at Haitian asylum-seekers. Following the arrival of a boat bearing nearly 200 Haitian men, women, and children in December 2001, the

...US detention procedures for asylum-seekers — already a matter of serious concern due to their mandatory nature and lack of independent review — have become even more problematic.

Lengthy delays in the US government’s conduct of security checks have left some asylum-seekers languishing in prisons and detention centres for months or longer.

Immigration and Naturalization Service (INS) instituted a policy of denying parole to Haitians. After a second boat arrived in late October 2002, the INS invoked one of its new detention powers and announced an expansion of expedited removal of future sea arrivals in order to deprive this second group of Haitians, as well as future arrivals, the opportunity to seek release on bond from an immigration judge.

The US has admitted that these policies are designed to deter others from fleeing to the US by boat. The US also contends that these policies are somehow necessary to protect “national security” — apparently because using Coast Guard resources to rescue Haitians would somehow divert resources needed for homeland security.

These and other changes, including the drastic decline in refugee resettlement (the US resettled only about 27,000, rather than 70,000, refugees last year; and if refugee processing continues at its current pace, the US will only resettle 13,000 refugees this year), represent a disturbing shift on the part of the US government. The US can, and should, reverse this course and, in doing so, ensure the safety of the victims of human rights abuses who seek its protection. ♦

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THE EFFECTS OF THE CHANGING WORLD ORDER
ON THE PROTECTION OF DISPLACED PERSONS AND MIGRANTS
CASE STUDY: A PATH PAVED WITH GOOD INTENTIONS?
— AUSTRALIAN ASYLUM POLICY

By Ophelia Field

In 2001, the Australian government stopped admitting to its asylum procedures the mainly Afghan, Iraqi, and Iranian asylum-seekers who were entering its territorial waters by boat. The crisis over Australia's refusal to admit the rescued asylum-seekers on board a Norwegian freighter, "the Tampa," was already well underway prior to the attacks on the World Trade Center in September 2001. The policy was, therefore, not counter-terrorist, though it was certainly strengthened by that climate of alarm.

The numbers of asylum-seekers who arrived by boat in Australia in 2000-2001, up until the shift from a policy of admission to one of closed coastal borders, was only 4,141 — a significant increase upon the previous year, but still a relatively small number. The government's justifications for the policy shift, which has succeeded in completely halting, or at least diverting, such arrivals, include the argument that asylum space is a limited resource and that those who were travelling to Australia via people-smugglers were stealing this resource from "more deserving" refugees who remained waiting patiently in camps overseas for resettlement.

To the extent that many Australian policy-makers sincerely believe in this argument of "tough choices," their intention was to enhance rather than erode global refugee protection. For this reason, it is important that NGOs and other refugee advocates, concerned about the human rights of those denied entry by Australia, should engage with this policy argument.

Off-Shore Processing in the Pacific

Aside from the mandatory detention regime on the Australian mainland, the most well-known feature of Australian policy is the fact that the government ordered boatloads of asylum-seekers to be trans-

ported involuntarily to the Pacific island States of Nauru and Papua New Guinea. Amnesty International and Human Rights Watch, among others, believe that the camps on those islands are detention centres and question the legality of that detention.

While held on these islands, the asylum-seekers had their claims determined either by UNHCR or by Australian Department of Immigration officials (but applying something akin to UNHCR determination procedures rather than Australian procedures). The asylum-seekers were given no advice other than from the organisations detaining them or deciding on their claims and they could not appeal a rejected claim to a court or other independent body. 1496 persons had their claims determined in the Pacific, of whom 735 were, as of November 2002, recognised as refugees. As of January 2003, only some 530 persons remained on the Pacific sites, the rest having been returned to Afghanistan or other home countries, or having been resettled, primarily in New Zealand. Only those with close family members already in Australia are resettled there from the Pacific sites and they receive only a temporary status (see below).

Although the US processing of Haitian asylum-seekers on Guantanamo during the 1980s raised similar issues about how to hold US officials accountable, no other country has attempted to fulfil its protection responsibilities — triggered in this case by the entry of the asylum-seekers into Australian waters — in such a radical way. The Australian government claims that this was a valid measure to deter people moving from the first country they reached in the Middle East or South Asia via Southeast Asia to Australia — a movement they viewed as primarily economic and, therefore, illegitimate. Research by Human Rights Watch has, in fact, suggested that many of the asylum-seekers were

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compelled, by failures of refugee protection in transit countries, to make the long journey toward Australia. It is a finding that suggests many were just as “deserving” as those refugees in camps overseas, but that they were merely more fortunate in being able to raise funds for their own travel.

Return to Indonesia

In October 2001, the policy of sending boats of asylum-seekers to the Pacific was replaced by one that aimed, wherever possible, to return them to their last point of embarkation — Indonesia. This was presented as a kind of unofficial “safe third country” return. However, Indonesia is not a signatory to the Refugee Convention and has no national protection system. The Indonesian authorities, though notified of the returning boats, did not explicitly accept responsibility for the reception or protection of any refugees on board. Australia did not determine whether or not the individuals in question faced any risks in Indonesia.

The “safety” of Indonesia was, therefore, based upon the operation of UNHCR refugee status determinations and resettlement programs. UNHCR determinations do not intend to mirror the much greater due process safeguards of a national asylum procedure in a country such as Australia. Australia found that funding UNHCR and the International Organization for Migration to accommodate and process asylum-seekers in Indonesia was much cheaper than allowing them admission to its own system, which involves appeal rights, social assistance, and legal aid.

Temporary Protection Visas (TPVs)

Most of the Afghan and Iraqi refugees recognised by Australia have received “TPVs” of limited duration. When the visas expire, refugees have to demonstrate their need for continued protection or they face forcible return. For those found to have spent more than seven days in a transit country offering “effective protection” (however that may be defined), other human rights may be withheld, including the right to family reunion. Again, this policy is justified in terms of preserving the limited resource of asylum space and deterring those who

might move on from one host country to another. In practice, it means that the burden of proof in relation to the withdrawal of refugee status is unfairly shifted onto each refugee’s own shoulders and that refugees

must often live for many years in a state of great uncertainty and distress.

There are a large number of norms, both in international law and in UNHCR guidelines, which govern relevant issues, such as non-rejection at borders, “safe third country” returns, interceptions at sea, exceptional use of detention, due process requirements to ensure a fair asylum hearing, and cessation or withdrawal of refugee status. The question for refugee advocates is how to preserve and promote these norms, while at the same time answering the Australian government’s false dichotomy between asylum-seekers in industrialised countries and refugees remaining in frontline states. ♦

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SPECIAL ICVA CONFERENCE ISSUE
NGOs IN A CHANGING WORLD ORDER: DILEMMAS AND CHALLENGES

THE STRATEGIC VALUE OF FORGOTTEN CRISES:
THE DETERMINING FACTOR?

One of the conclusions of a recent Conference in Denmark, organised by four Danish NGOs, on forgotten crises, was, in fact, that there is no such thing as a 'forgotten humanitarian crisis.' Instead of being forgotten, dreadful conflicts, populations in need, grave infectious diseases or epidemics, are severely ignored, neglected, or overlooked.

The main reason for using the term 'forgotten' is to highlight the discrepancies and inequalities in media coverage, the resources provided, or the response from the international community to these phenomena. In terms of geographic imbalances, as Anna Jefferys of Save the Children UK points out: in 1999 the UN Consolidated Appeal for Yugoslavia (i.e. including Kosovo) received US\$207 per person, while the appeal for the Democratic Republic of Congo (DRC) was funded at a mere US\$8 per person.

The Absence or Presence of Strategic Interests

Not surprisingly, one of the most significant factors for a crisis to become 'forgotten,' according to research carried out for the Danish Conference, is the lack of strategic interests, such as vital security concerns or economic values. The presence or absence of these factors can change dramatically, as happened in Afghanistan. In the nineties, it was mainly the International Committee of the Red Cross (ICRC) and NGOs that kept an interest in this chronic emergency. After 11 September, however, the country found itself at the centre of the international community's attention.

In other areas of the world, the presence of terrorist elements does not necessarily lead to high profile international action. By giving their intervention in Chechnya an anti-terrorism label, Russian forces have basically received a carte blanche from the international community, including most recently from the OSCE mission, which left overnight, allowing the Russians to continue their actions without the presence of international eyes and ears. At

the Conference in Copenhagen, a senior official from the UN's Office for the Coordination of Humanitarian Affairs (OCHA) even submitted boldly that putting the spotlight on Chechnya would not necessarily help aid agencies in their work. Silent diplomacy might be more effective, or so he implied.

A similar 'forgotten' crisis is seen in the South of the Philippines, in Mindanao, where the terrorist group Abu Sayyaf has provided the pretext for the crackdown on armed rebel groups. While hundreds of US troops are present in the country to boost the anti-terrorist skills of the military, the number of internally displaced persons (IDPs), presently estimated to be around 70,000, may further increase because of rising tensions in the area. Early reports of escalated fighting were received at the time of writing. As of late on Monday (10 February), more than 20,000 people had been displaced in anticipation of the new fighting, according to reports from Community and Family Services International, a Philippines-based NGO, which works in Mindanao.

The presence of economic interests, which one would think would be a strategic interest, does not necessitate involvement from the international community either. The DRC is full of highly precious economic resources, such as diamonds, but instead of triggering an international commitment, these resources and their tradesmen are rather known for fuelling the conflict.

Attention from the Media: Not the Only Factor

Contrary to the widely held belief that the "CNN factor" can play a crucial role in drawing attention to a forgotten crisis, the Danish research sees it as being of lesser importance than the strategic or economic interest. In the cases of the DRC, Chechnya, and Mindanao, however, it seems that the media factor is the only remaining option in

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NGOs IN A CHANGING WORLD ORDER: DILEMMAS AND CHALLENGES
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The Determining Factor?**

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terms of drawing attention to the situation. In this sense, NGOs have a crucial role, in drawing the attention of journalists to these situations and the untold stories.

It may be extremely difficult, however, to get the media interested, as is highlighted in the story on the Burmese minority, the Rohingyas (as seen in the case study in this issue). This story is hardly picked up by the media, despite efforts of NGOs, such as MSF.

Even if there is international attention and media interest, this factor may not be the trigger. The crisis in DRC has been well-documented. In 2001, the International Rescue Committee estimated that in the period between August 1998 and April 2001, 2.5 million deaths occurred because of the conflict. IRC's figures were quoted in international publications and taken up by the press. Has the international community become immune to such staggering figures? Why do such alarming rates of mortality not trigger a response?

No Solutions in Sight

Other situations have become so protracted or silent that they are not even considered to be crises anymore. They are instead labelled "chronic emergencies" and seemingly put aside by the international community, as seen in the case study on Burundi.

Refugee or IDP situations particularly risk becoming protracted when solutions are not readily in sight and there is an unwillingness on the part of the international community to engage in finding a solution to often complicated political situations.

Although the Thai government sees repatriation as an option for the Burmese refugees at the Thai-Burma border, truly voluntary repatriation is far from an option given the ongoing political situation in Burma. One relative advantage, compared to the situation in Burundi and in many other protracted refugee and IDP situations in Africa, is that funds have so far remained available in the case of the Burmese refugees on the Thai border.

Foreign Policy and Funds

What seems to be the major problem is the lack of funds available for humanitarian assistance, not to mention for development assistance. Without adequate political interest, it seems that such funds will not be forthcoming. There are currently

several international studies taking place on the financing of aid and the relationship between politics and humanitarian assistance. One does not have to be an expert to suspect that there is a degree of non-independence in governments' humanitarian budget allocations when compared to foreign policy priorities.

Responsibility of NGOs

In the end, NGOs have a crucial responsibility in upholding the principle of impartiality at the global level. In particular, international, Western, NGOs must be able to mobilise private funding in order to ensure that they can make their own operational choices, based on need alone, and that they do not always need to be part of the circus that characterises the high-profile emergency operations. ♦

** The background papers from the Danish Conference on Forgotten Humanitarian Crises are available on their website: <www.forgottencrises.dk>.*

THE STRATEGIC VALUE OF FORGOTTEN CRISES: THE DETERMINING FACTOR?
CASE STUDY: THE ROHINGYAS:
UNWANTED, UNWELCOME, FORGOTTEN

By Azeen Salimi

They have been in Bangladesh as refugees for more than a decade. They have lived in Burma for centuries. There are thousands of them spread all over the Muslim world. Yet few know who they are.

The Rohingyas are a Muslim ethnic group predominantly concentrated in Rakhine State in Northwest Burma.¹ Though struggling throughout their existence for legitimacy, the Rohingyas — as a minority group in Burma and refugees in Bangladesh — remain unknown or forgotten.

An Endless Cycle of Forced Migration

The Rohingya Muslims claim to be an ethnically distinct group with its own dialect, having had a presence in the area since the ninth century. The Burmese (Buddhist) military government, however, contends they are illegal immigrants who settled in Burma during British rule, and have denied them Burmese citizenship. As foreigners in their own land, the Rohingyas face institutionalised discrimination and other abuses, including limitations on access to education, employment, public services, and restrictions on the freedom of movement.

In 1978, more than 200,000 Rohingyas fled to neighbouring Bangladesh to escape a nation-wide campaign called Operation *Naga Min*, or Dragon King, launched to prosecute “illegal entrants.” Within 16 months, the Bangladeshi government forced back most of the refugees to Rakhine State, withholding food rations as one tool of coercion.²

The Muslims did not return to an improved situation. Forced labour, torture, and religious persecution finally culminated in the exodus of another 250,000 Rohingyas to Bangladesh in 1991-92.

The government of Bangladesh initially welcomed the refugees, but maintained — as in 1978 — that their stay was temporary. More than 233,000 refugees have since returned to Burma, many against their will, while the remaining 21,000 continue to endure coercion and aggression by camp authorities. Prohibited from leaving the camps freely, the refugees are confined to overcrowded, tight spaces, with insufficient water, inadequate shelter, and few educational opportunities. Never having enough to eat, they are chronically malnourished, but are not allowed to farm or work to supplement their food baskets.³

Though their living conditions in Bangladesh are substandard, many of the remaining refugees do not want to return to Burma, for they feel the situation back home is unsafe. Repatriation, however, seems to be their only option, as the Bangladeshi authorities will not allow them to

The stateless Rohingyas — unwanted in their land of birth and no longer welcome in their land of refuge — do not enjoy the world’s consistent attention.

settle permanently, nor has the international community expressed a willingness to resettle them elsewhere. The UNHCR has declared the situation in Rakhine State improved, enough to be conducive to repatriation. But this assertion conflicts with human rights reports, the testimonies of an increasing number of newly arriving Rohingyas into Bangladesh, and the observations of international NGOs in the field. Fundamentally, the Muslims are still refused Burmese citizenship, which is inarguably the root cause of their cycle of forced migration.

Vulnerable Yet Forgettable

The stateless Rohingyas — unwanted in their land of birth and no longer welcome in their land of refuge — do not enjoy the world’s consistent attention. Three general explanations can be cited as to why the Rohingya Muslims in Burma and

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Bangladesh are seldom at the forefront of our consciousness.⁴ One explanation is the media's scant, irregular coverage of their plight. Their problem is a chronic one, no longer an "emergency crisis," with few developments and little or no "sensation" value. It is difficult to find new things to say about a group who's never had rights and nowhere to go.

Geopolitical interests, or a lack thereof, are another reason for the neglect. The mere 1.5 million Rohingyas straddling a tiny corner of the earth hold no strategic, economic, or political value for western/donor governments. Having the same religion as suicide bombers, terrorist networks, and destroyers of ancient Buddhist statues does not help their cause.

(In fact, it may be argued that this religious factor encourages adverse attention.) Even the Burmese political opposition is disinclined to recognise the Rakhine Muslims as one of the national races.⁵ Muslim nations (e.g. Malaysia, Indonesia, Saudi Arabia) also have appeared powerless, overburdened, or uninterested in advocating for their Rohingya brethren.

Similarly, Bangladesh's relations with the West are limited and those of Burma strained. Both governments are steadfast in their policies toward the Rohingyas, rendering it conceivable that little would change even if foreign governments were interested enough to wield some political influence.

The international community's lack of geopolitical interest directly influences the level of humanitarian aid. This fact ties in with the third explanation, which is a lacking commitment of the stakeholders: the UN High Commissioner for Refugees (UNHCR), in this case. UNHCR is present on both sides of the border, but because of 'compassion

fatigue' and dwindling funds, it is under considerable pressure from its donors, headquarters, and the Bangladeshi government to scale back and close down the long-term, oft-stalled operation by mid-2003.

This pressure may explain UNHCR's apparent inability and/or unwillingness to adequately carry out its duties of assisting, protecting, and advocating for the Rohingyas. In Bangladesh, UNHCR is failing to ensure that the refugees are secure and healthy⁶ and that any repatriation is conducted in a voluntary, safe, and dignified manner. In Burma, UNHCR

refuses to challenge proclamations that the Rakhine Muslims are no longer a vulnerable population. To do so might require their prolonged stay.

The mere 1.5 million Rohingyas straddling a tiny corner of the earth hold no strategic, economic, or political value for western/donor governments.

Challenges and Coping Mechanisms for NGOs

Without the media to give the world frequent reminders, and the international community and UNHCR to provide adequate support, the concept of burden-sharing is compromised. There are only two international NGOs operating in the refugee camps and four in Rakhine State, and they feel compelled to compensate for the lacking attention. They find themselves taking on particular roles, such as monitoring and protection, that are well beyond their mandate and expertise and that should be taken on by UNHCR.

In the absence of international attention and sufficient funds, accountability of the stakeholders (i.e. UNHCR and the governments of Burma and Bangladesh) to their donors, partners, and beneficiaries is waived. As a result, the NGOs struggle harder to maintain standards for health, safety, and protection, and to ensure that human dignity is upheld.

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Many refugees are being forced to repatriate; their movement back in Rakhine is progressively more restricted; and forced labour is still a regular occurrence. Without the NGOs acting in their interests, it is unimaginable how much worse the lives of the Rohingyas would be.

In 2002, Médecins sans Frontières in Bangladesh sponsored a campaign to raise awareness of the Rohingyas to mark the 10th anniversary of their flight from Burma. The campaign, was successful in drawing the attention of the press and encouraged some action by the donor community, placing the Rohingyas back on “the agenda” and rekindling the hopes of the refugees.⁷

To ensure the success is long-lasting, some NGOs in both countries regularly report to and lobby donors, embassies, and UN agencies to maintain awareness. At the headquarters level, periodic meetings are held with government representatives, human rights organisations, and UN officials. At every level, international laws, standards, and basic rights are emphasised.

Repeatedly stressing the above may inspire little action when up against formidable obstacles as a lack of strategic interests and unwavering policies. NGOs try to find innovative, effective ways to urge governments to find a durable solution for the remaining Rohingya refugees. There is a need to place adequate pressure on the Burmese government to remove the conditions that caused their flight and to provide sufficient funds to UNHCR to increase, not concede, its protection functions.

As long as the humanitarian situation in the camps remains below accepted standards, and the human rights situation in Burma precarious, the Rohingyas will continue needing assistance and international protection. The world’s attention is no guarantee that the Rohingyas will find peace, but it will ensure that they will not be abandoned. ♦

NOTES:

1. The military government changed the name from Burma to Myanmar in 1989. For purposes of consistency, Burma will be used in this text.
2. As a result, approximately 10,000 Rohingya refugees died from malnutrition and illness.
3. See MSF-Holland, “10 Years for the Rohingya Refugees in Bangladesh: Past, Present and Future” (Dhaka, March 2002), at www.msf.org.
4. The three main factors are adapted from Gorm Rye Olsen, Nils Carstensen, and Kristian Høyen, “Humanitarian Crises: What Determines the Level of Emergency Assistance? Media Coverage, Donor Interests, and the Aid Business,” (paper presented at the conference on Forgotten Humanitarian Crises, Copenhagen, 23 October 2002).
5. Presumably because of religious biases and historical political tensions. Issues surrounding the ethnic minorities in Burma have achieved a priority status on the agenda for dialogue between the Burmese dictatorship and democratic opposition; citizenship for the Rohingyas, however, remains dubious.
6. Food, employment, education, and structural improvements in the remaining two refugee camps have been considered stay- and pull-factors by the Bangladeshi government and UNHCR.
7. Hearing a report about their plight on BBC radio roused the profound gratitude of the refugees to the staff of MSF and Concern, the other international NGO working in the camps in Bangladesh.

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THE STRATEGIC VALUE OF FORGOTTEN CRISES: THE DETERMINING FACTOR? CASE STUDY: WHERE FORGETTING IS NOT AN OPTION: BURMESE REFUGEES IN THAILAND

By Cynthia Buiza

Is Burma a forgotten crisis? When ASEAN governments legitimise the role of an illegitimate regime, such as the current Burmese government, what is the impact on potential solutions to the fundamental problems of Burmese refugees in Thailand? When the humanitarian and refugee communities are caught between authoritarian real politik in Southeast Asia and the absence of formal refugee legislation in the asylum country, where does it leave the refugees?

These questions are posed in order to problematise one of the most protracted refugee situations in Southeast Asia: that of the Burmese refugees in Thailand. At present, there are, according to data from ICVA member the Burmese Border Consortium (BBC), a total of 144,358 registered Burmese refugees in various camps in the Thai-Burma border. In addition, there are close to one million Burmese migrant workers living in refugee-like circumstances in Bangkok and in neighbouring provinces. Most of the refugees come from the Karen, Karenni, and Mon ethnic groups of Burma. An undetermined number (estimates range from 100,000 to 300,000 Shans from Burma's Shan State) of Shan refugees live outside camps in the North-eastern part of Thailand. This is due mainly to the Thai government policy not to open any new camps for the refugees that continue to arrive. In turn, these refugees outside camps are vulnerable to abuse, exploitation, and violation of their rights even after being displaced from their country.

The first major influx of Burmese refugees into Thailand began in 1984 when the Burmese army penetrated the dissident ethnic Karen State and established bases on the Thai-Burma border. At that time, a vast international effort was providing support for 500,000 Cambodian refugees on Thailand's Eastern border. The Thai government

did not want a similar situation to develop on its Western border. Although UNHCR did not become involved until 1998, Thailand allowed these refugees to remain on Thai soil, receiving support from various NGOs working through the Committee for the Coordination of Services to Displaced Persons in Thailand. Up until 1988, the refugees were often migratory, returning to Burma as the fighting diminished at the end of each rainy season. Following the suppression of pro-democracy demonstrations in 1988 and failed democratic elections in 1990, large numbers of the civilian ethnic population, students, and other pro-democracy advocates fled to Thailand for protection. Since then, and because of continued human rights abuse in the border States, there has been a steady increase in the number of refugees seeking asylum in Thailand.

Lack of Protection

In Thailand, defining 'refugees' is a delicate matter. The Royal Thai Government (RTG) is not a signatory to the 1951 Convention on Refugees or its 1967 Protocol, and under national law, asylum-seekers in Thailand are technically 'illegal immigrants.' In strictly formal terms, legal refugee protection, and even the terminology of refugees, does not exist.¹ Since the late 1990s, the official parlance of Thai policy has been expressed in terms of 'displaced persons fleeing fighting' (rather than refugees) and temporary shelters, (rather than refugee camps). However, in practice, the Burmese are recognized as *de facto* refugees and as a group with genuine claims to asylum in the border camps.

This recognition has allowed UNHCR and other humanitarian organisations to provide services to the refugees despite the absence of a clear policy. The general attitude from the government in Bangkok has been to assist displaced persons on a humanitarian basis, similar to the situation of the Indochinese refugees in the '70s.

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While Thailand has not pushed back refugees from the border 'until conditions allow' (although there are isolated cases where small numbers of refugees have been refouled), the lack of a legal framework providing full protection to refugees under the Convention has contributed to increased insecurity on the part of the refugees as well as to hidden and insidious violations of their rights. These violations range from grievous offences, such as sexual and gender-based violence against refugee women committed either by Thai soldiers or by the refugees themselves; prolonged confinement in the camps without any right to work or freedom to move (the refugee camps are fenced); limited education for the children and youth; and the increasing demonisation of the refugees to the Thai public. A recent case in point was when one of the refugee camps was washed away by the recent flooding in the North, killing nearly 27 refugees and the general response from the Thai public was to blame the refugees for destroying the environment. The Thai media rarely carry positive messages about refugees.

The vulnerability of the Burmese refugees in Thailand is not helped by the very cordial relations between the Thai government and the current Burmese government. The Thaksin administration's current relationship with Rangoon is one of appeasement and 'brotherhood' with the Burmese regime, known as the State Peace and Development Council (SPDC), formerly the State Law and Order Restoration Council. This is compounded by the ongoing policy of constructive engagement with Burma by the ASEAN member countries, as well as the usual failure of the junta's endless dialogues with the National League for Democracy (NLD) to achieve any fundamental results.

Protecting Refugees in the Post-11 September Context

The need to improve refugee protection has never been more critical than after the events of 11 September. Severe restrictions being imposed upon asylum-seekers and refugees, as well as the increasingly arbitrary imposition of labels upon people has added to the already worsening situation in communities where refugees can be found. After 11 September, the Burmese junta wasted no time in labelling the supporters of the various ethnic groups in the border area, as well as the exiled activists in Thailand, as terrorists. This labelling led to stricter rules and heightened surveillance of the Burmese political activists who are based in various parts of Thailand; restrictions on NGOs

There is enough telling information [about the humanitarian crisis inside Burma] to galvanise a more concerted initiative by the international community to respond to the situation beyond the current frameworks and paradigms.

providing assistance to Burmese refugees; and a tightening of policies for refugee acceptance in the camps. Only two months ago, the Thai government declared that it would no longer

accept new refugee arrivals from Burma. In the meantime, Burma's IDPs, currently estimated at 600,000 to one million, continue to run for their lives and the NGOs continue to seek for alternative and obscure ways to reach out to them.

In this scenario, it is quite problematic to imagine a durable solution for the situation of the Burmese refugees. The classic norms in refugee protection, namely voluntary repatriation, integration, and resettlement, all become a challenge when it comes to addressing the Burmese refugee problem. In internationally acceptable terms, repatriation is only possible when the conditions in the country of origin have changed and the root causes of flight permanently

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eradicated. This is not true of Burma now nor will it be in the near future. At the same time, Thailand is actively pursuing a future policy of repatriation.

Under the present regime, the Burmese authorities deny responsibility for the refugees encamped along the Thai-Burma border. The regime's position ranges from an outright denial of the existence of the refugees to the identification of the refugees with the insurgent forces to the claim of achieving peace and stability in the country without the refugees. Due to draconian asylum policies being implemented in resettlement countries, mainly in the West, resettlement is also increasingly a marginal solution for many Burmese, as well as non-Burmese refugees currently living in Thailand.

Where Forgetting is Not an Option

At present, international and local NGOs present in Thailand tirelessly advocate for better protection for the refugees despite their often sensitive

The desperate conditions in which the internally displaced Burmese find themselves might one day lead to a large scale humanitarian problem on top of the present one.

and insecure relationship with the Thai government. While no statistic is immediately available to determine the stability or instability of humanitarian assistance for the refugees, funding has remained relatively fluid and donor commitment, notably from the European Union and the US government, remains substantial.

The need to advocate for refugee rights within Thailand, despite the absence of a legal framework, is also vital to the immediate and long-term welfare of the refugees. Thailand must continue to be persuaded to adhere to broad humanitarian

and human rights principles. While agencies, like UNHCR, operate under the constraints imposed by the realities in Thailand and in the region, its protection mandate should be maximised and it must continue to seek ways in which durable solutions to

the Burmese refugee problem can be found.

Refugees who continue to arrive in the camps in Thailand articulate the scale of the humanitarian crisis inside Burma. There is enough telling information to galvanise a more concerted initiative by the international community to respond to the situation beyond the current frameworks and paradigms. The desperate conditions in which the internally displaced Burmese find themselves might one day lead to a large scale humanitarian problem on top of the present one. It is critical for the UN agencies, international organisations, and UNHCR to assess the risks and the scenarios before it is too late. ♦

NOTES:

1. Hazel Lang, "The Repatriation Predicament of Burmese Refugees in Thailand: A Preliminary Analysis," July 2001, p.3.

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THE STRATEGIC VALUE OF FORGOTTEN CRISES: THE DETERMINING FACTOR?
CASE STUDY:
BURUNDI: TERMINALLY HOPELESS

By Piero Calvi-Pariseti

Burundi, one of today's most tragic forgotten emergencies, suffers from a situation of "strategic hopelessness," which can be analysed in terms of three concentric layers, each one with a different time span and with progressively devastating consequences.

The first layer is the most visible one: the conflict. There is a widespread perception that the prospects for real peace following the Arusha accords are not good. As the Hutu former exiles currently holding government positions do not actually represent the country's ethnic majority, Hutu rebel movements continue to wage a vicious civil war against the Tutsi-dominated army, claiming an average of 500 victims per week.

In general, the depth to which the inter-ethnic conflict has seeped through the Burundian society, the extent of damage it has done to the social fabric, and the added economical and "ethnic exclusion" dimensions (the Tutsi minority controls the army and virtually all the meagre economic resources/activities in the country) make it difficult, to see how the basic requirements for durable peace and development — equal rights and opportunities and adequate representation for all Burundians — can be met.

Given the impossibility of solving the situation through military means, the bleak perspective of a continuing, chronic conflict, with possible periods of remission and exacerbation, remains the most likely scenario. This scenario is regularly reflected in the contingency planning documents produced by the humanitarian community in Burundi.

The second layer is less visible, much talked about, but hardly acted upon. AIDS, and not conflict, is today's first cause of death in Burundi. The rate of HIV/AIDS infection has risen to over 20% in urban areas and 7.5% in rural areas (compared to 11% and 0.7% respectively in 1989). AIDS-related deaths for the year 2000 are estimated at over 40,000. There are currently an estimated 240,000 people living

with AIDS and an estimated 230,000 AIDS orphans. More than 80% of Bujumbura's hospital beds in internal medicine wards are already occupied by HIV/AIDS patients. As far as the future is concerned, nobody dares to speak about numbers, but everybody expects the mortality curve to grow exponentially, at least for another ten years.

Much less information is available about the third layer: the so-called "population bomb." Its potential impact, however, in as much as it compounds and reinforces the previous two, is enormous.

The projections of a thorough government-UNFPA study published in August 2000 are shocking. In what is already Africa's most densely populated country, the hundreds of thousands of expected AIDS-related deaths during the next decade will be "swallowed" by the inflationary growth of the population. The trend, calculated on the data gathered between 1980 and 2000, shows that the population of Burundi doubles every 25 years, accounting for the consequences of AIDS. Keeping in mind all uncertainties inherent in statistical models, specialists speak with a certain confidence of nine million Burundians by 2010 and 12 million by 2023. Meanwhile, experts from the Food and Agriculture Organisation (FAO) Early Warning Unit for Burundi advise that already today the arable land available is insufficient to cover the needs of the population.

"Malthusian" theories, presenting conflict as the product of a growing population exceeding the "carrying capacity" of the land, have been often introduced as an analysis of the situation in Burundi and Rwanda. These theories have never received much support. One is left to ponder what will become of this country of farmers after thirty years of conflict, epidemic, and spiralling poverty, when each Burundian will have one quarter of an acre of land available for cultivation.

Humanitarians trying to respond to this tragic situation face some very serious dilemmas.

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On a short, day-to-day time-scale, and from a localised perspective, what the UN, NGOs, Red Cross, and church organisations are doing is important. The UNDP-coordinated Community Assistance Umbrella Project, for instance, is doing remarkable things in the Northern provinces. Action Contre la Faim's therapeutic and supplementary feeding centres have avoided thousands of deaths by starvation. WFP's distributions of food and FAO's distributions of seeds and tools have made life better for tens of thousands of families.

Already today, however, these interventions seem tragically inadequate. Poor funding (the 2001 UN Consolidated Appeal was funded for less than 50%); lack of access (often by deliberate political will on the part of the authorities); insecurity due to conflict and banditry; and, most importantly, the sheer extent of the vulnerability in this country, all severely hamper the impact of the efforts of the humanitarian community.

According to the scenario described above, however, this already large vulnerability, and the human suffering deriving from it, are bound to grow to such enormous proportions that the concept of humanitarian assistance itself seems tragically inadequate.

From the international perspective, Burundi is not only forgotten because the funding of humanitarian operations is poor. Burundi is forgotten because the international community simply does not remember about it. Its lack of strategic value (no oil, no diamonds, no terrorist networks) effectively cuts it from any agenda the international community may care about.

Burundi's problems are staggering. Even beginning to address them would require an incredible investment of economic resources and — especially — political commitment. The reality, however, is that nobody is going to put a "wet blanket" (20,000 international peace-makers? In Burundi?) on the conflict, which is a condition for opening up a

minimum space to start addressing the second and third layer.

What the international community will continue to do is to throw a few pennies at the humanitarians, who will continue to risk — and, too often, lose — their lives to arrange the chairs on the deck of this African sinking Titanic. ♦

** Piero Calvi-Pariseti. A former employee of the International Federation of Red Cross and Red Crescent Societies and of UN OCHA, Piero Calvi-Pariseti has spent a couple of months in Burundi between the end of 2001 and the beginning of 2002 as the Head a.i. of the OCHA Office in Bujumbura. Piero, who is now partner in the Geneva-based humanitarian policy think tank, GIGNOS <www.gignos.ch>, has contributed this piece based on extensive research he carried out a year ago.*

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