



Consistent and predictable responses to IDPs

*A review of UNHCR's
decision-making processes.*

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Evaluation and Policy Analysis Unit

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Executive Summary

This review was commissioned by the Internal Working Group on Internally Displaced Persons in order to bring greater clarity and consistency to the interpretation of UNHCR policy and operational guidelines on involvement with IDPs. The review analyzes certain variables that have influenced or determined UNHCR's involvement with IDPs with a view to indicating how UNHCR could be more consistent and predictable in its decision making processes. The review is not an examination of all aspects of UNHCR's decision to engage or not to engage in IDP situations, nor is it a review of UNHCR's policies on IDPs.

UNHCR has a successful history of engagement with IDPs in many countries and as a result is in a special position to protect and assist IDPs in a variety of new situations. This review shows that the High Commissioner is the most significant actor in taking the decision on UNHCR's involvement with IDPs. The catalytic role that the High Commissioner plays appears to be crucial, not only to the decision to engage but also to the ongoing operation. Consultations take place but on occasions the High Commissioner has taken decisions unilaterally. When UNHCR does not engage with IDPs the reasons used are usually a lack of capacity and resources. There is a high degree of polarisation amongst UNHCR staff who are proactive and forceful about engaging in IDP situations and those who view the issue as beyond the mandate.

UNHCR has intervened with IDPs in order to alleviate dire humanitarian situations of populations that may not have been properly 'of concern'. There are positive aspects of an ad hoc approach but this is not sustainable and reflects a lack of policy direction and understanding of legal obligations. UNHCR's use of the existing policy criteria in operational decision making is uncertain, inconsistent and unpredictable. The existing policy criteria are not systematically used as the crucial tool around which the decision is centred.

There has been no consistency in UNHCR's timing of a decision to become engaged with IDPs. Major influences on the timing of UNHCR's decisions include significant political changes, the level of public and political interest and the timing and intensity of media coverage.

UNHCR's level of participation in the collaborative approach and in inter-agency discussions on IDPs has varied. UNHCR's relations with other agencies and NGOs are often strained by the perceived unpredictability of the organization's position and process. UNHCR's ambivalence and lack of defined parameters in an operational framework appear to arise from the lack of a thorough needs assessment and an unclear division of labour. This hampers not only UNHCR but the effectiveness of the collaborative response.

Further consideration should be given to ensuring that UNHCR clearly articulate its position on IDPs, based on its policies and guidelines, each time the situation requires. In these situations, UNHCR should systematically advocate for protection and political and financial assistance for IDPs, including in situations where UNHCR is not involved operationally. Clear parameters of involvement in each IDP situation within the limits of the declaration of interest and commitment, can best be achieved in the framework of the collaborative response by systematically explaining the

reasons for entering or not entering each IDP situation. UNHCR needs to take steps to ensure that there is a comprehensive understanding of IDP policy within each Bureau and Field Office. Better in-house coordination may require a clear structure capable of providing a stronger focus on IDP issues within UNHCR.

Introduction

1. This review was commissioned by the Internal Working Group (IWG) on Internally Displaced Persons (IDPs) which was established by the Assistant High Commissioner in 2003 and chaired by the Department of International Protection (DIP). In order to bring greater clarity and consistency to the interpretation of UNHCR policy and operational guidelines on involvement with IDPs the IWG, in a meeting on 17 March 2004, identified the need for an internal analysis of a number of situations where UNHCR did or did not get involved with IDPs. "Critics, both within and outside UNHCR, have described the UNHCR approach to IDP situations as unilateral, unpredictable, not clearly articulated and not sufficiently linked to existing criteria."¹ The IWG's deliberations noted that: "The study could look at the extent to which existing policy criteria were used in operational decision-making, how decisions were taken and how they were communicated to external interlocutors under the 'collaborative approach'."²

2. The purpose of this review is to analyze certain variables that have influenced or determined UNHCR's involvement with IDPs with a view to establishing how UNHCR could be more consistent and predictable in its decision making processes. The review is not an examination of all aspects of UNHCR's decision to engage or not to engage in IDP situations, nor is it a review of UNHCR's policies on IDPs. It is an appraisal of the internal processes of the Office in deciding whether or not to get involved with IDPs.

3. UNHCR "has an interest in the protection and welfare of persons who have been displaced by persecution, situations of general violence, conflict or massive violations of human rights, because of their similarity to refugees in terms of causes and consequences of their displacement and their humanitarian needs."³ Persons of concern to UNHCR are sometimes referred to as those displaced for 'refugee-related reasons'. Those who are displaced only by natural disasters are included in the Guiding Principles on Internal Displacement and, although UNHCR has assisted such IDPs from time to time, they are not considered 'persons of concern' for the purpose of this assessment.

UNHCR's involvement with IDPs

4. UNHCR's involvement with internally displaced people goes back to the early 1970s. IDPs were included in programmes for returning refugees in South Sudan (1972), Guinea-Bissau, Angola and Mozambique (1974), Vietnam and Laos (1975). IDPs were living in the same area as the returning refugee populations, "in circumstances where it was neither reasonable nor feasible to treat the two categories differently."⁴ The reasons for their flight and their humanitarian needs were almost identical. Protection and assistance for IDPs were assumed under UNHCR's work for returning refugees in situations where it was operationally difficult to discriminate between the two. Similar considerations applied where IDPs were mixed in with refugees in their country of refuge, as victims of the same regional conflict.

¹ See Terms of Reference Appendix I.

² Note on meeting of the internal Working group on IDPs, RT/DIP, 27 March 2004.

³ UNHCR Position Paper, "IDPs: the Role of the UNHCR", 6 March 2000.

⁴ EC/SPC/87 of 17 August 1994.

5. Over the past decade UNHCR has been confronted with a wide range of displacement scenarios, covering both latent and overt conflict, in which the link between IDPs and returning refugees was not as clear-cut as before. In seeking to tackle displacement problems at their source, UNHCR began to look at ways of working in-country, which would allow displaced people to remain within their own country, as an alternative to cross-border asylum. As will be shown in this review, in Afghanistan, Colombia and Sri Lanka, UNHCR had access to IDPs for whom cross-border flight was not a ready option and so was able to assist.

6. A collaborative response to IDP situations has evolved, through the Inter-Agency Standing Committee (IASC), in which UNHCR has been an active participant. This approach requires UNHCR, as well as other agencies, to be part of a collective response to IDP situations. More recently in the United Nations Office for the Co-ordination of Humanitarian Affairs (OCHA), the IDP Unit identified situations requiring a UN response and ways of mobilizing support for IDP operations. The Unit was 'upgraded' to a division (renamed the Internal Displacement Division) and provides concrete support to country teams. The IASC has recently reviewed the collaborative approach and revised the policy package. UNHCR must now make decisions in light of these new developments and the evolving structures.

7. The exponential rise in IDP-related interest and activity has created pressures on the work of the UNHCR that derive not just from the moral imperative to 'do something' but also from a human rights approach which, recognizing the absence of an international framework and mechanisms specifically designed to protect IDPs, seeks to identify legal remedies and fill this protection gap.

8. As part of its commitment to humanitarian solutions, UNHCR's interventions with IDPs have been characterized by pragmatic and solutions-oriented approaches. The UN General Assembly has recognized this by endorsing UNHCR policy criteria on IDPs⁵, thereby permitting UNHCR considerable latitude regarding the decision to intervene or not.

Criteria for UNHCR involvement

9. From 1972 onwards, a series of General Assembly resolutions reaffirmed the role of the UNHCR with regard to IDPs, referring to its "good offices" or its particular expertise and experience. These resolutions, either authorizing UNHCR to work with IDPs in specific situations or expressing support for actions already undertaken, helped define UNHCR's mandate to work with IDPs, in accordance with Article 9 of its Statute. By the 1990s, the need for a more formal outline of the nature of this work and its requirements had become apparent.

10. GA Resolution 48/116 of 20 December 1993, expressing support for the High Commissioner's efforts, reiterated the prerequisites for involvement formulated in an April 1993 IOM/FOM⁶ on "UNHCR's Role with Internally Displaced Persons." This stressed that work with IDPs was "a dynamic and rapidly evolving issue," and outlined the essential prerequisites as:

⁵ UN General Assembly resolution 48/116 of 20 December 1993,

⁶Inter-Office Memorandum/Field Office Memorandum through which strategic policy is communicated to UNHCR staff.

- Authorisation from the General Assembly, the UN Secretary-General or another competent principal organ of the UN;
- Consent of the concerned State or, where applicable, other relevant entities;
- The relevance of the UNHCR's expertise to assist, protect and seek solutions for the displaced;
- The need for UNHCR's activities to remain within the limits of resources at its disposal.

11. The text then went on to define the various scenarios in which UNHCR might contemplate work with IDPs, where this was either incidental to existing UNHCR programmes for refugees and returnees (mixed populations, identical causes for flight, or risk of cross-border spilling), or supplementary to existing UN political and humanitarian efforts (where there was no such readily apparent link, but where UNHCR could contribute to attenuating the causes of displacement).

12. UNHCR's specific comparative advantage was identified as expertise in protection and solutions, and conditions added about preserving the right to asylum, full access to and security for displaced populations, and the right of UNHCR to deal directly with the government of the country in question.

13. EXCOM Conclusion 75 of 1994 endorsed the 1993 document as the "appropriate framework" for UNHCR's IDP work, and added comments about the close affinity between IDPs and refugees, the UNHCR's particular expertise in this field, and the need for it to collaborate closely with other interested organizations.

14. This framework was spelled out at greater length and with more explicit wording in a reformulated IOM/FOM, also entitled UNHCR's Role with Internally Displaced Persons, of December 1997⁷. A comparison of the two texts provides some measure of how far this role had developed in the intervening years. The 1997 document reflects on the wide variety of possible IDP scenarios and the flexibility required by the criteria in response to them. It stipulates that, where work with IDPs results from a mixing of populations at risk, or where such work is a natural extension of existing mandated activities, the UNHCR does not require prior UN or state authorization for such work. On the other hand, where there is no such apparent link, prior authorization is required. The intense internal discussions within UNHCR during 1997 in response to a request from the Colombian government from the UNHCR to provide technical support and assistance for IDPs in a situation where the 'link factor' was weak, reflect the challenges posed by this requirement.

15. The operational principles appended to the 1993 criteria are elaborated upon at some length in the 1997 document. This is particularly the case with stipulations about upholding the right to seek and enjoy asylum, and of the need for UNHCR to avoid appearing to contradict this right in the course of its in-country work with IDPs. This caveat may be seen as part of the long-running debate over the 'asylum dilemma' implications of IDP work, already present in the 1993 document.

⁷ IOM/FOM/87/97 (12 December 1997).

16. Two further additions in the 1997 document concern the nature of the UNHCR's activities on behalf of IDPs, and of its working relations with other UN agencies and interested organizations in the field. The first, in line with the variety of situations in which UNHCR pursues its objectives of affording protection and finding solutions, outlines a range of new activities into which its IDP work has drawn it: attempts at reconciliation, conflict resolution or otherwise diminishing the causes of displacement; promotion of human rights, strengthening the rule of law, support to national legal and judicial institutions. The 1997 document, like the 1993 texts, stresses the need for taking into account the mandates and expertise of other relevant organizations, and further stresses the importance of good relations and co-ordination between UNHCR and other organizations working with IDPs.

17. Further analysis of UNHCR's operational experience occurred in response to statements by the Security Council President in January 2000.⁸ UNHCR took the opportunity to reflect anew on involvement with IDPs in a comprehensive policy paper in March 2000, which was shared with the standing committee of UNHCR's EXCOM in June 2000.

18. The 6 March 2000 position paper entitled, "Internally Displaced Persons: The Role of the United Nations High Commissioner for Refugees" attempted to articulate the rationale for UNHCR's involvement in some detail and define UNHCR's responsibility. Without providing any additional legal basis for engagement with IDPs, the paper argues that "UNHCR has an interest"⁹ in IDPs and from that interest a responsibility, among other things, to advocate on behalf of IDPs and take the lead to protect and assist them in certain situations. The paper emphasized the need to act in concert with all relevant actors and organizations.

19. The High Commissioner's speaking notes for an address to the IDP Conference held in Oslo, Norway on 23 May 2001 confirm that:

- UNHCR has an interest in being involved with IDPs where internal displacement and refugee problems are linked. UNHCR has responded:
 - where IDPs are located in the same areas as refugees or returnees and are affected by the same circumstances: it is operationally difficult to differentiate between them.
 - where refugees return to their home country, but find themselves internally displaced because of continuing conflict or violence.
 - where involvement with IDPs could impact on the prevention or solution of refugee problems, and thus not adversely affect the right to seek asylum. When the same conflict produces both refugees and IDPs, meeting the protection and assistance needs of the internally displaced, while respecting their right to seek asylum, may help to mitigate the factors which would otherwise compel people to flee across the border. It can also help to create conditions conducive for the eventual return of refugees.
 - where IDPs have protection and solution needs similar to refugees, governments have turned to UNHCR for its humanitarian expertise.

⁸ Angola Country Study p.17.

⁹ At p. 4.

- "Three green lights" for UNHCR involvement [are]
 - authorisation by the UN Secretary General, or other competent part of the UN.
 - consent of the State concerned. This is to stress the main responsibility of the State, and to avoid controversy over national sovereignty. A UN mandate is needed when there is no clear national authority in charge.
 - adequate resources. Assurances for additional funds are essential. No promises can be made to address IDP needs, if the international community is not ready to pledge funds.

20. The High Commissioner indicated that the "three green lights" are not mandatory pre-conditions for all situations, but a way of systematising the allocation of responsibilities. The High Commissioner also emphasised that UNHCR will not wait for the UN mechanism to come into play when IDP's are an operational part of our mandated responsibilities for refugees and returnees, when refugees return home and become internally displaced, or when IDPs are living in the same area as refugees or returnees and it is not possible to help the latter without helping the former. It was made clear that OCHA is responsible for an inter-agency mechanism on international response to IDPs under the 'collaborative approach', in which the co-ordination responsibility at Headquarters lies with OCHA and at the field level with the Resident/Humanitarian Co-ordinator. The High Commissioner has indicated to the Secretary-General, in a letter dated 22 October 2003, that funding is no longer a major impediment for UNHCR's decision on engagement in an IDP situation if all considerations indicate a useful role for the Office.

Methodology

21. This review examines UNHCR decision-making in eight countries over a period of fifteen years. UNHCR's Evaluation and Policy Analysis Unit (EPAU) and the Chair of the IWG chose the countries on the basis of their reflecting a broad range of UNHCR experience with IDPs, engagement, partial engagement and non-engagement, over different periods of time. Each of the country studies is examined with the intention of highlighting the extent to which UNHCR's policy criteria on IDP engagement have been applied. The resulting range of experiences is then further analyzed against six central questions:

- Within UNHCR, who takes the decision of engagement or non-engagement and at whose request? Is the process transparent?
- To what extent are existing policy criteria used in operational decision-making?
- At what point does UNHCR make decisions about involvement with IDPs?
- If UNHCR does get involved, what is the nature and extent of the involvement?
- To what extent is UNHCR engaged in inter-agency discussions on IDPs throughout the process?

- How are UNHCR's decisions communicated to external actors regarding its role with IDPs?

22. In addition to publicly available materials, the review team had access to various UNHCR internal documents and archives. The team interviewed key informants, including the High Commissioner, some senior managers and staff from Headquarters and field offices. Few discussions were held with those outside UNHCR as this review primarily looks at the internal process. The details provided are intended to highlight aspects of the decision making process.

23. During the timeframe of this project, it was not feasible to research exhaustively all country files. Sometimes IDPs merited only a brief mention in country files. It is possible that some relevant materials may have gone unseen. Facts were checked with interlocutors when possible. The review team is satisfied that the materials and discussions provided sufficient information to substantiate the findings.

Afghanistan

It was an uncomfortable role for UNHCR; assisting IDPs within Afghanistan suggested complicity in Pakistan's decision to close the border, curtailing the right of Afghans to seek asylum, a right which UNHCR was created to protect.

UNHCR staff member

Summary findings: From 1979 to 2001, UNHCR's limited engagement with IDPs occurred inconsistently and at different levels in different parts of the country. Generally, UNHCR policy criteria were used to support decisions already taken rather than employed as the stimulus for engagement. After 11 September 2001, when the political situation changed and funding was available, UNHCR began to play an active role with IDPs in Afghanistan, even those internally displaced as a result of drought.

24. Internal displacement in Afghanistan took place from 1979. Some fled because of fighting, others because of regimes that they did not like or because of ethnic or tribal rivalries and related problems. Latterly, poverty and drought caused movement. Nomadic Kuchis moved to IDP camps because they lost livelihoods and some places became no-go areas for them because they were identified with the Taliban.

25. Major movements occurred towards the mountains and secluded valleys as well as to cities such as Kabul, Jalalabad and Herat and to regions in the southeast.¹⁰ UNHCR was involved in Afghanistan with IDPs either directly or through other UN agencies but initially did not approach the IDP situation in the country in a consistent manner.¹¹ Following fighting in August 1992, OCHA requested UNHCR to coordinate an inter-agency emergency operation.

26. UNHCR deployed teams to set up emergency camps around Jalalabad. The coordination function was later handed over to OCHA. There were discussions within UNHCR in Pakistan and Afghanistan on IDP engagement but with little reference to Headquarters. Questions were raised about compromising the right to asylum internally as the Government of Pakistan was applying pressure to prevent new arrivals from Afghanistan. "It was an uncomfortable role for UNHCR; assisting IDPs within Afghanistan suggested complicity in Pakistan's decision to close the border, curtailing the right of Afghans to seek asylum, a right which UNHCR was created to protect."¹² Interlocutors were satisfied that many IDPs had no intention of leaving Afghanistan to seek asylum. Interlocutors also considered that asylum was not compromised. Some argued it may even have been preserved as access to Pakistan was still possible for a few because large numbers ceased arriving in Pakistan so those with protection needs could cross the border.

¹⁰ Four Major Patterns of Displacement, WFP Assistance to Internally Displaced Persons, Country Case Study on Internal Displacement, Patterns of Displacement in Afghanistan October 1999.

¹¹ SWANAME Field Office Reports.

¹² The Dilemma of the Internally Displaced; No 108 Refugees, UNHCR, 1997.

27. In Jalalabad, UNHCR was anxious to contain its involvement to ensure there was not a never-ending commitment and because the protection aspect was limited to occasionally trying to encourage those known to have protection problems to go to Pakistan. There were not “turf wars” but interlocutors remember a demand for clarity about who was responsible for which services.

28. UNHCR’s relations with UN agencies and NGO partners at an operational level were good but at a practical level there were difficulties. In Jalalabad, the International Committee of the Red Cross (ICRC) and a Saudi NGO established their own IDP camps which led to problems of uneven assistance levels and created a pull factor for some residents. The major concern of NGOs was not related to UNHCR’s involvement with IDPs but the reasons UNHCR was returning people from Pakistan.

29. In 1996 in the west of the country, UNHCR agreed to take responsibility for IDP camps for a limited time. After consultation with the ICRC, OCHA and the Taliban provincial authorities, it was agreed that UNHCR would take charge of the IDP assistance programme through the winter, with the understanding that its role was not to last beyond the following summer.

30. The IDP camps in Herat were still full in 1997 when UNHCR was in the process of disengaging. There were no materials or funds to run a programme after one year. A level of expectation had built up through UNHCR’s involvement, and the circumstances of the IDPs had not changed at the time UNHCR attempted to disengage. The decision to intervene in Herat was an operational one based on resources and presence, and requested by the Taliban authorities.¹³ Having set a precedent by its involvement and provision of aid, UNHCR found itself hard-pressed to curtail this assistance. UNHCR had made it clear at the start of its involvement that it would be withdrawing within a few months, but this message was not taken seriously by those involved locally. UNHCR argued that withdrawal from the IDP operation was necessitated by UNHCR’s mandate and funding constraints. The withdrawal was resented and initially misunderstood in the face of local expectations and understandings¹⁴ and complicated by the fact that the quality of UN-Taliban relations was largely conditioned by the quantity of humanitarian aid distributed.

31. In Herat, “UNHCR was well aware that its decision to intervene with the Badghis (Province neighbouring Herat) IDPs was but loosely grounded in the usual criteria for UNHCR involvement with IDPs”¹⁵ but went ahead in any event in order to alleviate a dire humanitarian situation. The Sub Office in the west was concerned about the plight of a population that may not have been properly ‘of concern’ to UNHCR. Further objectives included anchoring the population in a safe area and alleviating an already apparent resource and ethnic strain in Herat. UNHCR played no protection role, nor could it have been argued that its intervention was preventive or that it was avoiding the creation of future refugees. The ethos in relation to IDPs at the time and lack of instant communication facilities meant it was possible to make the decision to engage with IDPs at the Sub Office level without reference to Headquarters.

¹³ Internally Displaced Persons in Heart, Arafat Jamal, Operational Policy Officer, EPAU March 2000.

¹⁴ Ibid.

¹⁵ Ibid.

32. Interaction with the ICRC was sometimes problematic owing to different mandates and operational procedures. It had been agreed among the main humanitarian actors in Afghanistan that the ICRC would take a prominent role in IDP matters in Afghanistan but later relinquished this role to UNHCR, in the first instance because UNHCR was initially better equipped to deal with an emergency. According to one interlocutor, UNHCR's relationship with ICRC in Herat was "distant". An issue was the willingness to distribute materials to people in need without doing the assessment the ICRC thought appropriate.

33. During this period there was no clear division of responsibilities for IDPs and this difficulty was "compounded by competing duties on the part of UNHCR to protect the institution of asylum, monitor the consequences of return, provide emergency humanitarian assistance, prevent refugee movements by addressing root causes as well as avoid unwitting complicity in various factions' strategies for warfare."¹⁶ To minimize any complications, a new resource-sharing agreement between ICRC, UNHCR, OCHA and WFP was signed in April 1997. ICRC was appointed the "reference" agency for IDPs under its general mandate derived from the 1949 Geneva Conventions, which includes responsibility for the protection of civilian victims of armed conflict. Each of the above named agencies and some NGOs established IDP task forces in all major centres of Afghanistan. The institutional framework for assisting IDPs in Afghanistan was seen as a "tricky dilemma for UNHCR for several years" and "troublesome and topical".¹⁷

34. By 2001 the Afghan operation had been in crisis for some time due to a lack of funds caused by poor repatriation prospects and movements.¹⁸ This was coincident with a sharp rise in the number of IDPs driven by drought and ethnic conflict. Furthermore the asylum crisis (Jalozai and the closure of the border) complicated UNHCR's involvement in IDP matters.

35. During 2001 at the level of High Commissioner, it appears that there was no initial reluctance to be involved. In a letter on 11 May 2001 to the Taliban leader Mullah Omar, the High Commissioner indicated that UNHCR was prepared to "play a more active role vis-à-vis internally displaced persons in Afghanistan, including in the eastern part of the country." UNHCR agreed to monitor and, together with other UN agencies and NGOs, to provide relief. In June 2001, the High Commissioner told the UN "we will assume a more active role vis-à-vis IDPs."¹⁹ The High Commissioner's decision was based on UN partners hoping to use the involvement of UNHCR to help break through negotiations with Taliban that were going nowhere.

36. The change in politics and Taliban loss of power after September 2001 resulted in a change of fortunes for the UNHCR operation in Afghanistan. The operation benefited from strong donor engagement in expectation of major refugee outflows. The resources permitted the early and strong re-engagement of UNHCR after the departure of the Taliban. The Chief of Mission in Afghanistan was in frequent contact with the High Commissioner on Afghan matters and practical and policy

¹⁶ Steven Wolfson, 'The Dilemma of the Internally Displaced,' No 108 - Refugee II, 1997.

¹⁷ Ibid.

¹⁸ Funding Crisis Hits Afghan Refugees; UNHCR 1999.

¹⁹ Letter from High Commissioner to Undersecretary-General for Humanitarian Affairs New York dated 1 June 2001.

decisions were taken at this level. This assisted clear operational decision making in the field.

37. At several meetings in New York around 15 November 2001, the High Commissioner emphasized that UNHCR would play a role with IDPs in “returnee” areas. The Secretary-General agreed UN agencies were to determine their own needs and that the role of UNHCR would embrace both relief and development and that UNHCR should be involved in consultation on “reconstruction” of Afghanistan. The High Commissioner announced in a press release that UNHCR would be “assisting and promoting protection and return for internally displaced people and other vulnerable Afghans inside Afghanistan, within a U.N. inter-agency framework.”²⁰ In 2001, the situation was that OCHA was coordinating the response for IDPs and tasked NGOs and agencies volunteering to take over IDP camp management responsibilities.

38. There were issues of concern to some in UNHCR’s DIP. For example, assisting those who were only drought victims under UNHCR’s mandate was questioned. But these concerns were short lived. It was recognized that UNHCR could act on humanitarian grounds even outside its direct mandate as a part of the UN family. There were legitimate doubts about how much protection UNHCR could offer. Interlocutors considered that protection was not the primary objective of UNHCR but the involvement was driven by operational issues. In the period after September 2001, the IDP criteria were considered by UNHCR, but very late in the process.

39. UNHCR’s position was formally affirmed on 6 June 2002 when the Chief of Mission in Afghanistan signed a Letter of Understanding with the Afghan Interim Administration and United Nations Assistance Mission in Afghanistan (UNAMA) designating UNHCR as the Secretariat of the Returnee and IDP Programme group. A document entitled “Considerations relating to the Provision of Protection and Assistance to IDPs in Afghanistan” was completed in July 2002. There was an increased Afghan Government engagement of the IDP situation after June 2002. However, UNHCR’s involvement continued to be crucial.

40. An overview of the south, prepared for UNAMA dated 5 July 2002 indicated “Most of the IDPs in the region are drought-related and have been displaced within the region itself.”²¹ And in relation to the north, “the first and perhaps the central issue that evidences the vulnerability of persons in the Northern provinces is related to the void of an applicable legal framework that could be effective in promoting protection.²² ...Humanitarian workers are aware of this void, but instead of addressing it in a systematic manner they are dealing with rising crises in a reactive manner and in an ad hoc fashion. A small task force could work on identifying the main protection issues, reviewing past and ongoing discussions with regional commanders, incidents of non-compliance of signed agreements, and identification

²⁰ 27 Nov 2001.

²¹ An Overview of the Situation of Internally Displaced Persons in the Southern Region of Afghanistan and Update on the Situation of IDPs in Afghanistan, Kabul, 5 July 2002, which is described as a Working document produced by M. Reed Hurtado in July 2002, under a consultancy contract for UNAMA, Pillar II.

²² A Synopsis of Protection Issues in Northern Afghanistan Update on the Situation of Internally Displaced Persons in Afghanistan Kabul, July 10, 2002. Working document produced by M. Reed Hurtado in July 2002, under a consultancy contract for UNAMA, Pillar II.

of the catalyzing factors that lead to violence. The group could initially be comprised by: UNAMA, UNHCR and ICRC....”

41. UNHCR was designated as focal point of the Returnees and IDP Consultative Group from 2003 by the Afghan authorities.²³ It was chaired by the Ministry of Return and Repatriation and included other government ministries, UN agencies, donor members and NGOs. UNHCR was engaged in inter-agency discussions and capacity building on IDPs throughout the process to enable it to reduce involvement at later stages. A concrete example of UNHCR’s involvement as a result of its focal point role was the formation of the IDP task force for the southern region, where successful efforts were made to involve the Ministry of Rural Rehabilitation and Development in finding more structural solutions for IDP problems such as Kuchi. Another example would be the establishment of a return commission by UNHCR and UNAMA in partnership with government authorities to encourage the return of Pashtuns displaced by ethnic conflict from the north.

²³ IDP response Matrix UNHCR responses.

Angola

...the reason we all turn to the UNHCR ... is precisely because they are our last, best hope for dealing with these problems..

UN Security Council President

Summary findings: Political pressure from outside UNHCR resulted in a former High Commissioner making a decision to engage actively with IDPs in Angola despite a strong internal reluctance to do so. The policy criteria were used to support the decision already made and since the decision to engage was taken prior to substantial inter-agency consultations, the connection to the existing criteria was a secondary consideration.

42. In the late 1970s, UNHCR's involvement in Angola began with repatriation of Angolan refugees who were living in the neighbouring countries during the war of independence. After independence in 1975, UNHCR made four attempts at Angolan refugee repatriation. Between 1988 and 1992, many of the 112,000 refugees returned spontaneously when UNHCR's repatriation was brought to a halt because of the deteriorating security situation. UNHCR's limited involvement with IDPs was directly linked to the Angolan returnee programme.²⁴

43. In March 1993, the High Commissioner approved a proposal from the Regional Bureau for Africa that UNHCR's returnee programme be extended to benefit persons affected by war, including some 88,000 IDPs. The community-based programme which operated in conjunction with NGOs was limited to emergency assistance in the vital sectors with very few protection interventions. The population was about half refugee returnees and half IDPs. UNHCR attempted to phase out of the assistance programme in 1994.

44. The 1997 UNHCR Angola Annual Protection Report stated:

"The root cause of internal displacement is the protracted war between the Government of Angola and UNITA. ...UNHCR participated, together with UCAH/DHA and NGOs in joint missions to assess the conditions of IDPs in Luanda Provinces. No assistance activity was carried out by UNHCR, as its main interest was to ascertain the presence of refugees among the displaced population. The protection problems confronted by IDPs in Angola are the same which would affect the population at large...

No organization has an overall responsibility for IDPs in Angola. However, a multiplicity of NGOs as well as UN Agencies and the Angolan Government provide material assistance to IDPs. The United Nations Humanitarian Assistance Coordination Unit (UCAH) plays a coordination role in the operations for IDPs. A sub-committee for IDPs and returnees, of which UNHCR is a member, exists within

²⁴ UNHCR's Operational Experience with IDPs, DIP September 1994.

the framework of the Humanitarian Working Groups, which benefits from the participation of UCAH, UN agencies, the Ministry of Assistance, UNITA, IOM, international and national NGOs.”

45. The Report justified UNHCR's involvement by citing the policy outlined in IOM/FOM/33/93.

46. Involvement with IDPs was mainly ad hoc in 1998 after the government had made requests²⁵ to UNHCR to provide assistance to IDPs in specific regions of the country.²⁶ In accordance with IOM 87/97-FOM 91/97, dated 2 December 1997, and on the request of the Government of Angola, the BO began providing assistance to IDPs. This involvement was limited to areas where UNHCR had established a presence and where refugees and/or returnees and IDP populations were intermingled. The assistance given to IDPs, such as non-food items, was limited in time and scope.²⁷

47. In November 1999, a review of UN Strategic Coordination in Angola by the OCHA Senior Adviser on IDPs stated NGO representatives were very insistent upon their need for guidance from the UN on cross-sartorial issues.²⁸ “Without clear, concrete and up-to-date guidelines provided by the UN, instances will increase in which NGOs are drawn into activities that violate humanitarian standards...” In part, coordination difficulties “might be due to the difficulty of identifying specific agencies that should take the lead on key issues.”²⁹

48. In a statement to the Security Council on Promoting Peace and Security on 13 January 2000, US Ambassador to the UN and Security Council President, Richard Holbrooke said:

“... I want to focus on the fact that two thirds of the refugees in the world do not fall under the official purview of the UNHCR. We call them IDPs ...these are people and to a person who has been driven from his or her home by conflict, there is no difference between being a refugee or an IDP. In terms of what has happened to them, they are equally victims but they are treated differently.

... the reason we all turn to the UNHCR ... is precisely because they are our last, best hope for dealing with these problems ...

I hope that all of us would recognize that what we must do is expand the definition of what is a refugee-- erode, if not erase, the distinction between a refugee and person who is internally displaced... fix the responsibility more clearly in a single agency and not fall back on one of the worst of all euphemisms, "we are coordinating closely,"

²⁵ ICRC/UNHCR Meeting on IDP Returnee Programme in Angola, SALU, 6 June 2000.

²⁶ “However, non-food items which can benefit 50,000 IDPs were given to the Government. In addition, the health posts in Viana and Bengo were established to provide health services to the refugees and funded by UNHCR have also been extending their services to the IDPs who live in adjacent areas.”, UNHCR Angola 1999 Country Report.

²⁷ Angola 1998 Annual Protection Report.

²⁸ November 1999, Review of UN Strategic Coordination in Angola by the OCHA Senior Adviser on IDPs at Para 35.

²⁹ *ibid* at 36.

which in Angola's case is a physical impossibility since the UN agencies are scattered in ten different buildings in a city without good working telephones or good infrastructure, and get on with trying to address the problem."

49. Following the "unanticipated"³⁰ initiation of this debate in the Security Council, the High Commissioner, in her briefing during the same Security Council meeting, called for an "end to the distinction between the two groups" and "comprehensive mechanisms to protect people fleeing their homes ... and comprehensive, regionally-based solutions to their predicament." She also explained that UNHCR's role had been limited because of the lack of security and funding. The Security Council President responded to this by calling upon states to provide more support.³¹

50. After the official invitation of the Angolan Government³² and the UN Security Council in early 2000, the Secretary-General sent a UN inter-agency mission to Angola between 19 and 23 March to examine the operational capacity of UN agencies on the ground and to explore challenges in addressing the needs of IDPs. The mission, which included UNHCR staff, reported that conditions were "appalling and shocking."³³

51. Debate took place within UNHCR and the first draft of a discussion paper, prepared by the Regional Directorate for Southern Africa, was produced within 10 days of the High Commissioner's statement to the Security Council. The recommendation was that UNHCR should be extremely careful in accepting a role with IDPs in Angola and should not attempt to undertake an operational role. The paper assessed the situation against the UNHCR criteria for engagement and also discussed other reasons cited for an engagement by UNHCR, such as the lack of a systematic structure for IDPs, ineffective planning or coordination of assistance by the international community, security and a shortage of finances.

52. Although the Regional Directorate for Southern Africa cautioned UNHCR on engagement, a decision was taken by the Senior Management Committee indicating that "engagement should be comprehensive except for food...."³⁴ The final decision, taken at a March Senior Management Committee meeting, was based on the fact that "Given the acute humanitarian suffering, [UNHCR's] involvement needs to be considered in Angola even if the current situation does not match our policy position." The Senior Management Committee summary account also indicates that "UNHCR clarified to agencies and NGOs on the ground, that it would not take a lead role but work within the inter-agency framework."

53. This decision however, did not reflect overall unanimity. Email correspondence³⁵ indicates that, at the Senior Management Committee which decided this issue, all the directors were against UNHCR's involvement but the High Commissioner simply overruled them all and said "we [will] do it." The interlocutor

³⁰ Note for the High Commissioner: UNHCR's involvement with IDPs, IDP Task Force meeting conclusions.

³¹ Presidential Statement on Refugees and Internally Displaced Persons in Africa, 13 January 2000.

³² 21 February 2000, official invitation from the Government of Angola to assume assistance role for IDPs.

³³ Senior Management Committee meeting minutes, 30 March 2000.

³⁴ Senior Management Committee Principals meeting, 30 March 2000.

³⁵ 19 January 2004.

states, “actually getting it done was 10 times more complicated as other UN agencies were concerned that we were trying to take over the whole operation and the acrimony over this continued for some time.”

54. UNHCR sent a rapid assessment mission³⁶ which concluded that an emergency operation should be launched in three out of the 17 provinces of Angola with US\$2 million from the reserve funds. The High Commissioner agreed with the recommendation³⁷ of the Africa Bureau and urged immediate intervention.³⁸ She also emphasized that UNHCR’s expertise in protection would be an additional asset.

55. UNHCR’s Operations Review Board (ORB) approved a request for a supplementary programme for the assistance of IDPs in July 2000, conditional upon it being implemented in a “phased manner with assistance based on resources available.”

56. There was a great deal of reluctance to have UNHCR involved with IDPs in Angola. Interlocutors discussed how the emergency team came with substantial funds while the already existing refugee programme in Angola was lacking in resources. This created tension between staff working with refugees and those who came to work with IDPs.

57. From an external perspective, there was also a general concern about UNHCR’s involvement with IDPs:

- OCHA was very concerned that a single agency approach would not work. OCHA believed that there was a future in IASC debates and decisions on IDPs. OCHA was also worried that UNHCR was trying to take over their already established projects.
- ICRC was concerned with UNHCR’s intervention with IDPs because the Geneva Convention already provided a legal basis for IDP protection³⁹
- NGOs were opposed to UNHCR intervention initially. This was depicted by the NGO interlocutor who warned that there had been considerable mobilization against UNHCR among the NGO community. He claimed that they were waiting for the UNHCR delegation “to chew and then spit you out.” This sentiment was appeased when they were told that “Mr. Holbrooke stood alone.” Indeed, this is how it looked in Angola as the US Embassy did not agree with Ambassador Holbrooke and neither did the EU delegates, represented by the Portuguese Ambassador who spoke on behalf of the Presidency.⁴⁰
- Partner agencies of UNHCR were reluctant to acquiesce, and sceptical about UNHCR’s involvement in Angola due to the fact that UNHCR came into the situation so long after other organizations.

³⁶ 8-20 April 2000.

³⁷ 8 May 2000.

³⁸ 9 May 2000.

³⁹ LONY 21 January 2000.

⁴⁰ Report on UNHCR participation in the Inter-agency mission on IDPs in Angola, 19-23 March 2000.

- Donors were initially sceptical especially because Angola has many resources of her own that were badly managed.

58. However, months later, the international staff in Angola (including NGOs and UN agencies) seemed to be working together in harmony as initial concern and reluctance subsided. As with many UNHCR officials, the NGO viewpoint shifted once it was clear UNHCR's Angolan team was capable and likely to accomplish the goals set for the project.

59. The objective of the intervention was to follow the emergency response with carefully designed protection and assistance activities.⁴¹ When UNHCR phased out, the programme was considered a brief and successful intervention with IDPs in Angola. Despite the early criticisms that temporary staff had no time to settle in properly or get to know the dynamics of IDP areas, UNHCR successfully provided assistance and protection to IDPs by, together with its partners, supplying them with a variety of services.

60. Four months after the project started, the ORB approved an extension of the programme in Angola into 2001 making it an 18 month project. It was later extended once more after the conclusions of the Real Time Evaluation, which appreciated the impact UNHCR had on Angolan IDPs. The evaluation team concluded that it would reflect badly on UNHCR and decrease credibility to pull out. It was noted that the project had funds left over at the end of 2001 and the IDP problem persisted.

⁴¹ It was decided that they would primarily focus on what they had comparative advantage in, instead of work that other UN agencies and NGOs could facilitate.

Burundi

...UNHCR would exceptionally continue humanitarian relief to returnees in such centres [regroupment centres housing mainly returnees], subject to the conditions agreed with the UN. Where IDPs were mixed with returnees, UNHCR assistance could benefit IDPs also, but there would be no unrelated assistance to IDPs.

UNHCR Director

Summary findings: In Burundi, protection and assistance to IDPs was hindered by a lack of funding. Although ad hoc and limited assistance was provided, there was no clear overall UNHCR strategy. There was a lack of a clear strategy and consensus amongst all actors over what their priorities and principles should be. This was compounded by the absence of detailed information available on the displaced.

61. Population movements have been a regular occurrence in Burundi's history since its independence in 1962 due to ethnic conflicts and ensuing political instability. UNHCR started operating in Burundi in 1964 and its limited and ad hoc intervention on behalf of IDPs was based on requests by the government and was seen as an extension of its assistance to refugees and returnees.

62. Large-scale intervention in Burundi was triggered by major population movements since 1993 caused by increased political upheaval and insecurity.⁴² No international agency was assigned overall responsibility for the IDPs in Burundi. The delivery of material assistance was coordinated by the Department of Humanitarian Affairs (DHA), with contributions from UNHCR, WFP, ICRC, UNICEF and NGOs.

63. Normally, assistance was provided solely to areas of return as an extension of UNHCR's assistance to refugees and returnees. Limited monitoring and protection activities were provided in areas of return although severely constrained by the overall security situation. In 1995 and 1996, UNHCR arranged for emergency distribution of food to IDPs when WFP temporarily suspended its activities in the north.

64. The government policy of relocation of the population or regroupement became official in 1996. The policy led to more displacement which prompted strong protests by the international community. UNHCR participated in intensive consultations with other agencies and NGOs as to the appropriate response from the humanitarian community. A common UN position was reached in November 1996 and was followed by a policy adopted in March 1997 by the UN's Inter-Agency Standing Committee in New York. The policy called for the dismantling of the camps and stipulated that until that was achieved, assistance from the UN would only be of a "temporary and life sustaining nature." The debate on the regroupement policy did not affect UNHCR's assistance to IDPs in areas of refugee return.

⁴² Post-Conflict Approaches in the Great Lakes Region (Burundi, DRC and Rwanda), 19 October 1999.

65. In a report on the UNHCR Protection Mission to the Great Lakes in May 1997, the Director of the Department of International Protection stated:

“We agreed with the Representative that UNHCR would exceptionally continue humanitarian relief to returnees in such centres [regroupment centres housing mainly returnees], subject to the conditions agreed with the UN. Where IDPs were mixed with returnees, UNHCR assistance could benefit IDPs also, but there would be no unrelated assistance to IDPs.”

66. By 2000, UNHCR was not providing assistance to any IDP or regroupement camps, nor had commitments been made to either assist in the dismantling of these camps, nor in the support of the population once returned to their homesteads.

67. After a mission to Burundi in February 2000, the Special Representative of the Secretary-General on Internally Displaced Persons recommended that the government and the wider international community “develop a comprehensive response strategy identifying the protection, assistance and reintegration needs of the regrouped populations as well as the measures and resources required to meet the needs.”

68. A UNHCR draft position paper dated March 2000 set out a complete range of options for UNHCR’s intervention with IDPs in Burundi ranging from no assistance to full involvement. The paper spelt out the rationale for UNHCR’s involvement:

- To prevent future drought-related displacement;
- To ensure an effective and comprehensive response to the protection and assistance needs as recommended by the Representative of the Secretary-General on Internally Displaced Persons;
- To respond to a formal request from WFP for logistical support to carry out its general food distribution in the northern and eastern provinces.

69. The position paper was never finalized and it seems that a clear overall strategy was never developed.

70. In May 2000, a summary of UNHCR’s operational involvement with internally displaced persons was drawn up in a document to be read in conjunction with the UNHCR position paper “Internally Displaced Persons: the Role of the UNHCR.” The document stated that “the deteriorating situation in Burundi may make it increasingly difficult for UNHCR to maintain its current position of refraining from involvement with IDPs.”

71. A senior inter-agency network mission⁴³ in December 2000 on internal displacement found that despite the best efforts of a wide variety of organizations, including the IDP-WG in Burundi, there was a lack of a clear strategy and consensus amongst all actors over what their priorities and principles should be. This was compounded by the absence of detailed information available on the displaced. A number of initiatives had been undertaken to collect information on the available population settled in camps. However, there was little known about the dispersed

⁴³ Senior Inter-agency network on Internal Displacement mission to Burundi, 18-22 December 2000.

population scattered in the hills or residing with host communities, due to problems of access and security. The mission recommended that OCHA actively assume the role of UN focal point on internal displacement under the overall leadership of the HC/RC.

72. Protection of IDPs in Burundi was described by interlocutors as sub optimal. The mission reported that “despite the recommendations of various previous reports, the majority of humanitarian agencies focus their activities on the provision of assistance, while inadequate attention is given to the protection needs of the displaced. Serious violations are perpetrated by actors on both sides in an environment of near total impunity. This is compounded by the lack of safe access and the limited operational capacity on the part of protection-specific mandate actors such as OHCHR, UNHCR and ICRC.” One of the action points of the mission report was for UNHCR to explore “how to become engaged in protection activities on behalf of displaced populations.”

73. The provision of adequate and timely protection and assistance of displaced populations in Burundi was further hindered by an acute lack of funding. The Consolidated Appeal Process (CAP) for the year 2000 only received 22 percent of the requested funds. FAO only received 50 percent, UNICEF 35 percent and OHCHR and the United Nations Population Fund (UNFPA) received no funding at all.

74. While OCHA undertook a larger role, UNHCR’s role consisted of primarily working with IDPs within refugee communities. Some of the services UNHCR provided for IDPs in Burundi were: “monitoring violations (ad hoc); IDP rights awareness; legal counselling (ad hoc); safety and security (in many areas); protection of children (ad hoc); gender (ad hoc); peace-building (ad hoc); emergency education (few areas); shelter (few areas); non-food items (few areas); judicial system (ad hoc); property rights (many areas); rehabilitation (few areas); coordination (many areas); and security.”⁴⁴

75. The UN Internal Displacement Unit undertook a mission to Burundi in April/May 2004. One of the purposes of the mission was to review with the humanitarian community the coordination mechanisms in response to the IDP situation. The mission reported that the protection forum on IDPs, Groupe Technique de Suivi (GTS), was the only existing mechanism where IDP issues were raised on a regular basis with the UN and NGO community. This forum however, “lacked the regular participation of agencies with protection mandates such as UNHCR and UNICEF”, thereby making the meetings ineffective.

76. On return and reintegration of IDPs, the mission reported that there was “no consensus within the humanitarian community on the role and the capacity of the Reinsertion Inter-Agency Cell (CIR), a structure created by a Memorandum of Understanding between UNHCR, the World Bank and UNDP as a coordination and programming unit to support the Government’s Réhabilitation des Sinistres (PNRS).”

⁴⁴ IDP Response Matrix, annex 1, UNHCR answers on sectoral involvement in IDP activities, September 2003.

Colombia

While some donor representatives underlined the need for effective coordination and counselled prudence and caution, other important donors expressed their preparedness to support UNHCR politically and financially, if and when required.

The High Commissioner writing to the Secretary-General

Summary findings: Calls for engagement with IDPs from the field were maintained until UNHCR managers in HQs and the HC agreed to become active in Colombia. Divisions within UNHCR were overcome when the High Commissioner agreed to UNHCR participation. The policy criteria were used to justify non-involvement and then involvement.

77. In the early 1990s, UNHCR's Regional Office in Venezuela covered 17 countries but had programmes in only six, including one in Colombia. A Memorandum of Intent signed in October 1996 between the government and the High Commissioner, covered UNHCR's mandate-related activities in Colombia. There was no permanent UNHCR presence in Colombia and the Regional Office covered limited activities through missions from Caracas.

78. Strong views were held in the mid-1990s that UNHCR should not get involved with IDPs in Latin America. A UNHCR review of activities in the area, undertaken in November 1995, concluded that it was difficult to make a convincing case for UNHCR's operational involvement with IDPs in South America. The mission report⁴⁵ listed several arguments why UNHCR should not get involved. These included the lack of presence or operational experience in the areas concerned and the belief that it would be very unlikely to attract the kind of funding required to establish large-scale programmes. The mission report also pointed out that the IDP question in Colombia and Peru was not linked to a refugee or returnee situation and concluded that the situation in the region did not meet the criteria for involvement set out in the High Commissioner's IOM/FOM/33/93 of 28 April 1993. However, the report recommended that UNHCR continue to monitor the plight of IDPs in the region and reassess its operational involvement in the event of any new population displacement.

79. The decision not to assume any direct assistance or protection responsibility with regard to Colombian and other South American IDPs was affirmed during the Santo Domingo Protection Seminar in December 1995.

80. An increase in asylum applications from Colombian nationals in European and Latin American countries in late 1996/early 1997, the mounting evidence of forced internal displacement in Colombia and the refoulement of 88 Colombian asylum-seekers from Panama in late 1996 prompted a joint Headquarters/Regional Office mission to Colombia. The mission's objective was to assess the scope of internal displacement in Colombia and the implications of refugee outflows.

⁴⁵ Review of UNHCR's activities in South America and the Caribbean. Inspection and Evaluation Service, June 1996.

81. The mission concluded⁴⁶ that there was :

- a worsening situation in Colombia, and risk of increased external displacement/aggravated regional tensions this phenomenon implies;
- a complete consensus, among “national actors” and “international actors”, that the major cause of displacement was violations of human rights as a result of the conflict itself and the war strategies being used against civilians by opposing forces; and
- an urgently-needed crucial role for UNHCR.

82. The main recommendation was that UNHCR should establish a continuous presence in Colombia as soon as possible.

83. This recommendation was supported by numerous national and international NGOs and UN agencies on the ground. Following a joint inter-agency mission and on UNHCR Colombia’s request, the representatives in Colombia of UNDP, UNICEF and UNHCHR wrote⁴⁷ to the Director of the Bureau for the Americas and the Caribbean, advocating for UNHCR’s involvement with IDPs in Colombia. This initiative was aimed at prompting Headquarters into developing its position on the issue. The UNHCHR “expected the UNHCR to be the lead agency on the issue of IDPs in Colombia.”

84. The next development of significance was a request from the Foreign Minister of Colombia to the High Commissioner for UNHCR “to consider the possibility of establishing a permanent presence in Colombia, to provide support to the Government in its efforts to strengthen its response to the problems of internal displacement.”⁴⁸

85. This request was followed by a letter on 15 August 1997 from the Special Representative of the Secretary-General on Internally Displaced Persons to the High Commissioner encouraging UNHCR’s involvement with internally displaced persons in Colombia.

86. The High Commissioner, purportedly reluctant until then to get involved with IDPs in Colombia, reviewed proposals prepared by the Regional Bureau and requested the Assistant High Commissioner to go to Colombia to evaluate “the feasibility of UNHCR undertaking a programme for internally displaced persons there.”

87. Upon his return, the Assistant High Commissioner recommended a “modest, prudent and gradual involvement of UNHCR with IDPs in Colombia.”⁴⁹ The Assistant High Commissioner concluded, that while the situation in Colombia remained highly complex and volatile, UNHCR would be able to make a discreet contribution to easing the plight of internally displaced. The mission proposed a

⁴⁶ Report of mission to Colombia, RBAC/RO Caracas. 17 February 1997.

⁴⁷ Cable cover note dispatched from UNHCHR, UNICEF and UNDP, office code HQAC02, 9 July 1997, file reference PRL.23.COL.

⁴⁸ Letter from the Minister of Foreign Affairs to the High Commissioner, 6 June 1997.

⁴⁹ Colombia mission report, Sergio Viera de Mello, 17 November 1997.

programme that would focus on technical advice, negotiation of “micro”-solutions and consolidation of return. A relief component was not foreseen.

88. The legal basis for UNHCR’s involvement was set out in a background paper from the Regional Bureau.⁵⁰ The paper asserted the Colombian case complied with the main criteria for involvement stemming from key GA resolutions and UNHCR’s IOM/FOM 33/93 as it fulfils “the Office’s requirements for a situation which shows a clear link with activities which UNHCR undertakes in fulfillment of its mandate” in that IDPs are mixed with returnee populations (e.g. Panamanian border) and/or are found in potential areas of return, causes for internal/external displacement are identical and the risk of “cross border spilling is evident.”

89. The document also added that the Colombia case complied with main requirements in that:

- an official request from the government had been received;
- UNHCR was widely acknowledged to have relevant expertise;
- additional voluntary contributions would be sought for this purpose.

90. The legal basis was reiterated in the conclusions of the Assistant High Commissioner’s mission report. However, a request from the UN Secretary-General was added as a prerequisite to UNHCR’s involvement.

91. The HC broadly endorsed the recommendations made in the mission report. She requested however, that consultations be undertaken with donor government representatives and other agencies, in particular the ICRC, at the Geneva level, before taking any further steps to initiate a programme. The purpose of these consultations was to ensure that the unanimity of views evident from Bogotá with regard to the desirability of UNHCR’s involvement, was also shared at respective Headquarters.

92. The High Commissioner wrote to the Secretary-General on 19 January 1998, referred to UNHCR’s consultations with key donors, representatives of operational partners in the UN, the ICRC and IOM. She stated that “overall there was support for the urgent needs to address the problems of internally displaced persons, and a consensus on the importance of UNHCR’s proposed contribution”. The letter also went on to specify that “while some donor representatives underlined the need for effective coordination and counseled prudence and caution, other important donors expressed their preparedness to support UNHCR politically and financially, if and when required.”

93. The High Commissioner stated that she was inclined to respond positively to the request of the Government of Colombia and had decided to proceed with the establishment of a limited presence in Bogotá.

94. The Secretary-General replied to the High Commissioner on 28 January 1998, where he stated that he agreed to the conclusion reached by the High Commissioner and offered full support for UNHCR’s responding to the Government of Colombia along the proposed lines.

⁵⁰ Note on proposed role of UNHCR in Colombia, Geneva 3 December 1997.

95. A Liaison Office was established in July 1998 in Bogotá. A Memorandum of Intent signed in January 1999 with the Colombian government set out the scope and content of UNHCR's support, limiting it to the provision of specialized expertise and technical co-operation in all phases of displacement, from prevention to solutions.

96. UNHCR expanded its presence in Colombia over the past five years and today has six field Offices. Since 2000-2001, there has been an increase in refugee outflows to neighbouring countries. Over 40,000 Colombian asylum seekers and refugees are registered with UNHCR in Costa Rica, Ecuador, Panama and Venezuela. UNHCR played a key coordination role in Colombia, heading the Thematic Group on Displacement (GTD), a forum categorized as dormant since 2002. This main coordination function has since been taken over by the UN Humanitarian Coordinator and OCHA. OCHA, which was previously part of the UNHCR Office, has established its own office since July 2004 and reports directly to the Humanitarian Coordinator.

97. While the government response to the problem of IDPs remained inadequate and under-resourced, similarly, the international community response has not been adequate in addressing the extent of the crisis. In November 2002, the UN (led by UNHCR and supported by OCHA) sought to strengthen its collective response with the launch of a Humanitarian Plan of Action (HPA). The HPA, which focused on national institution-building, post emergency and prevention, was considered to be the first comprehensive step to inter-agency planning.

98. Although the consultative process was perceived as positive, the HPA did not successfully mobilize donors. The HPA was regarded as a strategic document rather than a result of joint planning that could be translated into an action plan. A second phase, the HPA II, is seeking to address the shortcomings of the previous initiative and was scheduled to be launched in October 2004.

Iraq

The original UN contingency plans anticipated that UNHCR would be the lead agency for IDPs.

Arthur C. Helton and Gil Loescher

Summary findings: A sharp reversal of UNHCR's commitment to engage with IDPs is a feature of the Iraq case study. Many of the same criteria used to justify non-engagement were later used to justify engagement. Despite a lack of inter-agency consultations on the ground, the Secretary-General supported UNHCR's decision to engage. UNHCR's proposed programme in Iraq was a multilayered long-term undertaking – one without an immediate imperative life saving character.

99. In April 1991 after the Gulf War and five days after a UN Security Council Resolution, the Secretary-General requested UNHCR to “launch an emergency programme of assistance” for Iraqi Kurds in Northern Iraq.⁵¹ The Executive Delegate of the Secretary-General was made responsible for the overall coordination of the international response and arranged for the government to facilitate a UN humanitarian presence in Iraq. A sub-office and humanitarian centres were established.

100. From April 1991, UNHCR's assistance programme was tailored to respond to three categories of need:

- Emergency interventions for repatriated refugees and IDPs who were living temporarily away from their homes;
- Rehabilitation of villages through a “winterization” programme and other shelter projects for the IDPs who returned to their permanent home; and
- Establishment *in situ* of a contingency stock of food.

101. In March 1992, UNHCR began handing over its operations in Iraq to other UN agencies, principally UNICEF, and an estimated 500,000 Iraqis remained displaced. By the end of June 1992, UNHCR had completed its share of the emergency relief assistance programme requested by the Secretary-General.

102. Throughout most of 1990s, UNHCR reported that either the UN Iraqi Relief Coordination Unit or UN Humanitarian Coordinator's Relief Coordination Office was the agency responsible to assist the internally displaced people in Northern Iraq.⁵²

103. UNHCR's Iraq 2000 Annual Protection Report (APR) indicates that “Large numbers of IDPs in Northern Iraq ... are not currently facing any specific protection problems except the general security problems everyone is facing in Northern Iraq,

⁵¹ SC Resolution 688 : Iraq (5 April 2004).

⁵² See for example APR at section 8 1996, 1997, 1999, 2000.

generated by the lack of centralized administration capable of maintaining effectively law and order in the area.”

104. The 2002 APR stated that “While no clear information on IDPs in Iraq is available, both because of the inherent difficulty of statistically counting IDPs and because of the underlying political interests in the figures, there is no doubt that years of internal and external conflict have caused very considerable displacement.”

105. Between 1991 and 2003, UNHCR was not involved in providing protection or assistance to IDPs due to the fact that the government claimed that there were no IDPs in Iraq. Displaced persons as well as returnees from Iran, who repatriated spontaneously to the northern governorates, received assistance under the UN Security Council 986 “Oil for Food” programme.

106. In 2002, no UN agency had a specific responsibility for IDPs in Iraq; however, Habitat and UNOPS managed some targeted assistance programmes such as shelter and income-generation in the north. There were complaints that the priorities accorded by the local authorities to certain groups of IDPs/returnees were sometimes tainted by political interest or patronage.

107. From mid-2002, the humanitarian community was preparing quietly but with an increasing sense of urgency to respond to the needs of Iraqi civilians, including IDPs and refugees. The UN Humanitarian Coordinator in Iraq was designated as the IDP focal point and humanitarian organizations were drawing up contingency plans. UNICEF declared its plans to assist IDPs in a donor update. The World Food Programme (WFP) stocked food for 900,000 Iraqis ahead of a possible conflict.⁵³ The International Committee of the Red Cross (ICRC) and several NGOs also announced that they were preparing to respond to civilians' needs in the event of a conflict. It was accepted that coordinating the response to IDPs would be very challenging as no single UN agency was in charge of responding to their assistance and protection needs.

108. In its Contingency Plan for Iraq, dated 4 November 2002, UNHCR distinguished “persons fleeing generalized violence and/or persecution who seek access to asylum” from those IDPs who might seek refuge inside Iraq.⁵⁴ Further, UNHCR stated in March 2003, that in line with its mandate, it would focus its efforts on protecting and coordinating assistance for refugees and asylum-seekers.⁵⁵ UNHCR did not intend to become engaged in operations for internally displaced populations inside Iraq at that stage.

109. Gil Loescher and Arthur C. Helton⁵⁶ reported that:

The original UN contingency plans anticipated that UNHCR would be the lead agency for IDPs. However, according to Jean-Marie Fakhouri [UNHCR Special Envoy for Iraq], UNHCR said it did not have the capacity or experience in Iraq to take on that role in addition

⁵³ AFP 29 January 2003.

⁵⁴ Contingency Plan for Iraq and Neighbouring Countries UNHCR, 4 November 2002, at 6.2

⁵⁵ “Joint Note on the Interaction between the ICRC and the UNHCR in the Context of the Iraq Crisis.” Internal document.

⁵⁶ Arthur C. Helton & Gil Loescher, *Internally Displaced Persons in Iraq: A Potential Crisis?* By OpenDemocracy.com, 10 April, 2003.

to refugees in the region. Unlike some other UN agencies, UNHCR had only a small presence in Iraq before the outbreak of conflict. Given its limited human and financial resources, coupled with the need to respond to other pressing refugee operations in Afghanistan and West Africa, Fakhouri believes that UNHCR should continue to prioritise emergency preparedness for Iraqi refugees only.

Gil Loescher was told that the UN Humanitarian Coordinator for Iraq ... had delegated specific tasks to assist IDPs in Iraq to two other agencies.

This decision has caused consternation among NGOs and some governments who are concerned that neither UNOPS nor IOM have extensive experience working with IDPs. ...At the international level, there is no established protection agency for the internally displaced. In Iraq, the concern most frequently voiced by NGOs is that neither UNOPS nor IOM has a legal protection mandate for IDPs. Numerous NGO and UN officials told Gil Loescher that other agencies would be better suited to lead the international response to IDPs in Iraq. They pointed to UNICEF, for example, which has long experience in Iraq and has up-to-date information on the population and their needs. It also is reputed to be the best prepared of all the UN agencies for the Iraqi emergency and has warm relations with local authorities. There is also the International Committee for the Red Cross, which has a mandate under international humanitarian law to protect civilians in armed conflicts.

110. In late March, the UN Under Secretary-General for Humanitarian Affairs Emergency Relief Co-ordinator (ERC) wrote to ICVA, which had queried the role of IOM, and said that "in keeping with the concept of the 'collaborative approach' in managing IDP situations, the Working Group will draw upon the capacities and experience in protection of agencies such as UNICEF, UNHCR, ICRC and NGOs. ... I have raised the matter with the High Commissioner for Refugees and requested his help in identifying suitable senior staff with protection experience for these teams."

111. On 27 March 2003, the High Commissioner wrote to the UN USG for Humanitarian Affairs in New York and said "Taking into account the concerns of several important partners of the IASC and the fact that UNHCR will in any case have a substantial presence in Iraq, I wonder if it is not better that UNHCR take the lead with respect to protection standards for returnees (whether it be the old caseload, any person forced to flee during the current conflict or those who have been internally displaced.)" The High Commissioner stated "UNHCR has good experience with IOM and UNOPS as implementing partners therefore it should not be difficult to look at how we can work together on what needs to be done and how it should be organized."

112. The High Commissioner wrote to the Deputy Secretary-General on the same day "I add to this that in my reading, the change of direction with respect to IDPs is understandable as there were a few new elements of which we were together maybe not fully aware." The High Commissioner stated that there were three new elements, namely:

- the role of the ICRC;
- the concern of important implementing partners including IRC and Refugees International ; and
- it had become clear that in the post conflict phase, UNHCR would have a substantial presence in the country because of the return operation.

113. The High Commissioner reiterated the availability of UNHCR to take the lead on IDPs in the “context of return.”

114. On 2 May 2003, the president of the ICRC wrote to the High Commissioner and spelled out ICRC’s role under Humanitarian Law, the fact that ICRC is lead agency for the Red Cross and Red Crescent movements, and function of ICRC under the Joint Note signed in March 2003.

115. By July 2003, UNHCR was chair of the Taskforce for Return and Resettlement in Northern Iraq. The group focused on the definition of target groups and areas, possible response mechanisms, partnerships and timelines. During an August policy review of UNHCR operations in Iraq⁵⁷, it was stated “UNHCR’s involvement with returning IDPs, particularly in Northern Iraq, is strongly and inextricably linked to resolving the property claims which have accumulated over the years of forcible displacement and social engineering by the former Iraqi regime.” UNHCR’s proposed programme in Iraq was a multilayered long-term undertaking – one without an immediate imperative life saving character.

116. A letter from the High Commissioner to IOM, dated 22 September 2003, suggested that UNHCR should be designated the “main agency.” IOM responded⁵⁸ that in its eyes and in the eyes of its partner governments, IOM was the “main agency” for assisted voluntary returns. Further IOM stated “no agency has an unambiguous mandate for IDPs. ... The IASC will again address this question of IDPs at our meeting in December. That discussion will perhaps allow us to make some progress in defining IDP roles, although the continuing lack of consensus among the international organizations and governments is an obstacle. ... I remain intrigued by Gene Dewey’s⁵⁹ idea that UNHCR might be given a protection role for IDPs while IOM is designated as the international organization of first resort for assistance.”

117. UNHCR’s Fact Sheet⁶⁰ of October 2003 stated that “UNHCR contributed to the orderly and sustainable return and reintegration programs for IDPs in designated areas of return. ... Activities planned included basic reintegration assistance, legal assistance, supporting the establishment of adjudication mechanism for the resolution of property claims, reintegration schemes such as income generating packages, shelter assistance and other interventions.”

118. The Iraq Revised Appeal⁶¹ stated that “As part of other protection efforts, UNHCR is participating in inter-agency initiatives in southern Iraq, to seek a solution

⁵⁷ Section 3, “IDP’s of concern to UNHCR”, 26 August 2003.

⁵⁸ Letter, dated 8 October 2003, from the IOM Director General .

⁵⁹ Assistant Secretary, Bureau of Population, Refugees, and Migration in the USA.

⁶⁰ UNHCR Fact Sheet on Iraq, 23 October 2003.

⁶¹ Iraq Revised Appeal July - December 2003 Ensuring Protection and Enabling Return.

to the situation of the displaced Marsh Arabs. And given that many refugees and IDPs originate from the same areas, share similar experiences and will encounter identical reintegration obstacles, UNHCR's efforts to assist return and reintegration are, to a large extent, equally relevant to returning refugees and returning IDPs."

119. After the UN inter-agency planning workshop,⁶² UNHCR was asked to take over the chair of the IDP Working Group in Amman while continuing to work in close collaboration with relevant UN agencies, IOM and NGOs. The Working Group began providing support to the Iraqi authorities in developing a national policy on internally displaced populations and continues to do so today.⁶³

120. In November, UNHCR co-funded a workshop on IDP Protection with IOM and UNOPS. The UNAMI-led workshop was designed for NGOs and UN national staff and included sessions on elements of international law relevant to displaced persons; the Guiding Principles on IDPs; and return and resettlement.

121. UNHCR's NGO partners continue to implement reintegration projects for returning IDPs in Northern Iraq. The Ministry of Reconstruction and Development regularly transmit lists of newly-returned IDP families to UNHCR, many of whom have requested shelter assistance from UNHCR. In other districts, UNHCR, with the local authorities and NGO partners, has conducted a joint identification and needs assessment mission of newly-returned IDP families. Twenty IDP villages were identified, and the Office is working with an NGO to draw up a project assisting the newly-returned in an initial ten villages.⁶⁴

122. In 2004⁶⁵, UNHCR's Operations Appeal stated: "As Task Manager for the IDP and Refugee Cluster, UNHCR will work with partner organizations and the authorities to ensure an effective and coordinated response to the needs of IDP returnees and those remaining in areas of displacement. It will provide advice and leadership on issues relating to protection, monitoring and policy and coordinate the setting of standards for the care and maintenance of IDPs in areas of displacement as well as those for the return to areas of origin. Together, Cluster members will help the Iraqi authorities develop a national IDP policy."

123. A draft "Strategic Plan for IDPs in Iraq" prepared by the IDP and Refugee Cluster and its IDP working group, was submitted to UN Emergency Relief Coordinator by the Deputy Special Representative of the Secretary-General and Humanitarian Coordinator for Iraq on 26 August 2004.

⁶² Iraq Revised Appeal July - December 2003 Ensuring Protection and Enabling Return

⁶³ Iraq Update 19 December 2003.

⁶⁴ Ibid.

⁶⁵ Iraq Operations 2004 Appeal IDPs, p 6.

Liberia

... as the UN is in the process of designing a new role in the political context of Liberia, it may be premature for UNHCR to determine unilaterally the role it intends to play vis-à-vis IDPs, even as an actor in a more general framework.

UNHCR Regional Coordinator

Summary findings: Assistance given to IDPs in Liberia was largely ad-hoc and managers were reluctant to get further involved after a change of circumstance because of a lack of resources. When a decision was made on the nature and extent of assistance to be provided by UNHCR to IDPs, it was made without substantial inter-agency consultation. The lack of definition of the parameters of operations and concerns about not being able to disengage were also considered fundamental issues that required resolution prior to engagement.

124. Liberia's civil war began in December 1989 when rebel forces invaded the country seeking to overthrow the government. Within the first few months of 1990, approximately 400,000 persons were internally displaced and 70,000 became refugees. This population movement was repeated in early 1999 when another rebel group attacked Liberia, later joined by a second, with the shared objective of overthrowing the government in power.

125. Various agencies, including UNHCR, based their intervention on their respective mandates, operational capacities, and relevant Security Council and General Assembly resolutions. Initially involved in relation to the emergency programme for Sierra Leonean refugees in Liberia, GA resolution 45/139 of 14 December 1990 requested UNHCR to assist Liberian refugees and the internally displaced.

126. UNHCR has been involved with IDPs in Liberia since the early nineties. This involvement has been described as "inadvertent, but unavoidable in implementing the emergency programmes for Sierra Leonean refugees"⁶⁶ because the refugees and Liberia's internally displaced persons lived together, faced similar deprivation and sometimes ended up being displaced together again. In 1994, UNHCR came to the conclusion that it was "operationally difficult and morally unacceptable"⁶⁷ as well as a security risk to the refugees, if UNHCR was to direct its assistance only to the refugee population.

127. However, this assistance to IDPs was largely ad hoc and in most cases an extension of refugee assistance. Centres with only IDPs did not receive as much attention.⁶⁸ The assistance to IDPs was considered necessary but it overstretched the available resources which were budgeted only for refugees. UNHCR's high visibility created various expectations, from the government and the internally displaced

⁶⁶ UNHCR's operational experience with internally displaced persons, September 1994.

⁶⁷ EC/SCP/87 of 17 August 1994.

⁶⁸ Ibid.

themselves, but the Office remained “cautious in not projecting the impression that it is the Agency that should be shouldering full responsibility for this population.”⁶⁹

128. Subsequently, the increased pressure by the government and donors for UNHCR to get more involved with IDPs put the Office in what the Branch Office described in a paper prepared for a workshop in May 2002 as “awkwardly, at the centre, unable to adequately intervene and yet with much expected from the Office.”⁷⁰ The agency’s presence, expertise and assistance to IDPs, albeit limited, had generated the perception that UNHCR was the best equipped to take a stronger operational role with IDPs in Liberia. On the ground, UNHCR was also giving out signals that it wanted to increase its role and leadership in this area without taking up a formal lead role. In 2002, it was widely felt that UNHCR’s limited programming did not match its political stance.

129. This view was strengthened by the fact that the UN response to the needs of IDPs, led by the Humanitarian Coordinator and supported by OCHA, was not adequate and that the situation on the ground was worsening. This concern was expressed in a letter from the High Commissioner, dated 9 July 2003, to the Deputy Emergency Relief Coordinator. The High Commissioner offered to play an active role in the delivery of protection and assistance to IDPs, along with other agencies, and called for the development and the implementation of a coherent inter-agency strategy.

130. There was broad consensus on the ground that gaps existed and that a lead agency, with an exclusive responsibility, was needed in Liberia. Some argued that UNHCR should be designated as lead agency responsible for IDPs in Liberia and others expressed their surprise that UNHCR did not proactively seek this responsibility.⁷¹

131. The issue went to the UNHCR Senior Management Committee at a meeting on 23 July 2003. A background paper from the UNHCR Regional Coordinator concluded that “as the UN is in the process of designing a new role in the political context of Liberia, it may be premature for UNHCR to determine unilaterally the role it intends to play vis-à-vis IDPs, even as an actor in a more general framework.” The Assistant High Commissioner noted during the meeting that the paper would serve as the basis for UNHCR’s IDP policy.

132. Shortly after the departure of President Charles Taylor in August 2003, it was estimated that close to half a million IDPs had gathered in and around Monrovia fleeing the intense fighting that preceded his departure. In a memorandum to the Bureau Director, the Regional Coordinator advocated for an increased role with IDPs. He stated that “UNHCR needs to take a courageous stand concerning its role in the protection and assistance of IDPs in Liberia, which goes beyond taking the responsibility for only those who are living alongside refugees or in return areas.”⁷²

⁶⁹ Situation in Liberia, internal note, ref: 610. GEN LIB, 8 June 1993.

⁷⁰ Workshop on the protection and solutions of Internal Displacement: Learning from UNHCR’s Operational experience; the viewpoint of UNHCR Liberia; 16-17 May 2002.

⁷¹ The humanitarian response in Liberia. Some observations by the ICVA coordinator, 11 June 2004.

⁷² Memorandum from the Regional Co-ordinator to the Director and the Deputy Director of the Africa Bureau, Issues Concerning the implementation of UNHCR’s Operational Framework for the Liberian situation, 3 September 2003.

133. In the same memorandum, the Regional Coordinator stated that for UNHCR to be successful, it was important that the Organization and its staff were fully committed to the task and that a policy decision was required at the headquarters and regional levels.

134. There were opposing views within UNHCR about the extent of UNHCR's involvement with IDPs. Many felt that UNHCR should not get involved and the scarce resources should be allocated to refugees rather than IDPs. The reluctance from managers stemmed mainly from the lack of resources.

135. A joint DIP/Africa Bureau paper entitled "UNHCR's Policy and Operational Role Concerning Internally Displaced Persons in Liberia," dated August 2003, set out the operational framework and legal basis for UNHCR's role with IDPs in Liberia. The paper pointed out that it was "widely admitted that the analysis of the situation fits squarely with the criteria and policy."

136. It also stated that IDPs were living in close proximity to refugees, in some instances in the same camps, and differentiating between the two was "neither reasonable nor feasible"... in responding to their needs [EXCOM Conclusion 75 (g)]. Moreover, responding only to the needs of refugees could expose them, and possibly aid workers to physical risks.

137. The paper explained that while it was acknowledged that the primary responsibility for the welfare and protection of IDPs was with the State concerned, if there were a cessation of hostilities, the government did not have the capacity to provide the requisite protection and assistance to IDPs.

138. The policy paper also referred to the funding/resource implications as a prerequisite for assistance to IDPs. It went on to specify that the Africa Bureau, in consultations with the field, would formulate a feasible budget on the immediate needs, to share with donors. The paper concluded that the budget should take into account the inter-agency approach to avoid duplication.

139. The policy paper was drafted before inter-agency consultations had taken place. UNHCR had unilaterally decided that assistance "would be provided on a sectorial basis limited to areas where IDPs are mixed with returnees and/or refugees." The paper stated that "UNHCR's planning figure is a total of 300,000 which is based on the assumption that other organizations shall also play a role."

140. A supplementary appeal was launched in 2003 to cover the pressing needs including those of 100,000 IDPs⁷³ as direct beneficiaries. UNHCR described in the appeal that it was "the first time in the recent history of the Liberian conflict the international community had demonstrated its willingness to mobilize the resources needed."

141. UNHCR was also not clear about the key operational areas it wanted to commit to. Within the UN Country Team, UNHCR was one of the few organizations with relevant expertise and an operational capacity but suffered, in the same way other organizations did, from a lack of resources.

⁷³ IDPs were included for the first time as direct beneficiaries in the 2004 Global Appeal.

142. Several NGOs in Liberia and some UN agencies also felt that UNHCR should be responsible for camp management. In a letter dated 19 September, the ERC pointed out that the Secretary-General's Special Coordinator for Humanitarian Assistance in Liberia had designated UNHCR to "manage the camps not only in Monrovia but also in other parts of the country." This function was not agreed to nor implemented in the field. There was reluctance on the part of the senior management of the Bureau to play a lead role in the management of camps and to use the scarce resources intended for return and reintegration of refugees. UNHCR subsequently promoted and supported the NGOs, who ultimately took up the function.

143. One of the findings of a joint UN IDP unit/OCHA/UNHCR mission to Liberia in March 2004 was that there was a general awareness of growing tensions between OCHA and UNHCR, purportedly generated by different perceptions of the role each organization should play vis-à-vis IDPs. Tensions between key actors including the Humanitarian Coordinator and OCHA⁷⁴ resulted in the absence of an overall strategic and operational plan. Such a plan would have established a broad framework under which UN agencies, NGOs and the government of Liberia should have worked on behalf of IDPs.

⁷⁴ The SRSG insisted that all humanitarian action came under him and this created concerns about the independence of the Humanitarian Coordinator and his ability to coordinate humanitarian action in an independent way.

Sri Lanka

Cut off from both relief and safe refuge, many returnees and internally-displaced persons would seek to flee to India and elsewhere.

Independent consultant

Summary findings: One of UNHCR's longest running IDP operations (1987 -present) is in Sri Lanka. UNHCR undertook a de facto coordinating role that is still in place today. The formal designation as coordinating agency was requested and received from the Secretary-General retroactively. The request for involvement came from the field and from a country of asylum.

144. UNHCR started operating in Sri Lanka in 1987. A special programme of limited assistance to returnees from India to Sri Lanka was implemented between late 1987 and mid-1990. The principal objective of the programme was to facilitate the reintegration of Tamils who had decided voluntarily to return within their own home areas.

145. 1990 marked a turning point. After 14 months of peace talks, the conflict resumed in all its intensity. Between June and September 1990, approximately 140,000 people left through Mannar Island to India far surpassing the 43,000 asylum seekers/refugees who returned from India to Sri Lanka between 1987 and 1989 assisted by UNHCR.

146. UNHCR received a request from the Government of India on 9 August 1990 to explore the possibility of channeling international assistance to the internally-displaced Tamils in Sri Lanka, "to which India could contribute, in order to provide them with an alternative to fleeing abroad."⁷⁵ The Government of India had broached the idea with the International Committee of the Red Cross (ICRC) but had received a negative preliminary response.

147. In parallel, a proposal in line with the Indian suggestion was discussed at the Branch Office between the Government of Sri Lanka, UNHCR and the ICRC.

148. The ICRC at the time was not directly involved in any relief programme in Sri Lanka, but sought only to facilitate the government's or the local Red Cross Society's regular provision of food supplies by road or sea transport to the North and the East of the country.

149. The UNHCR representative in Sri Lanka subsequently submitted a comprehensive memorandum in which he argued for the provision of immediate relief in Mannar District, using as a centre a church shrine where some 13,000 internally displaced persons had sought sanctuary. This launched the concept of Open Relief Centres (ORCs) as a pragmatic response to the humanitarian needs on the ground. Both the Government of Sri Lanka and the Liberation Tigers of Tamil

⁷⁵ Mission report from the Deputy Director of International Protection.

Eelam (LTTE) strongly supported the programme and encouraged the process. The operational objectives were:

- to assist and, to the extent possible, protect persons of concern to the Office (the 23 000 persons who had already returned to Mannar from India);
- to reduce the pressures for further flight, and,
- to promote conditions which would be conducive to further voluntary repatriation.

150. The issue went to UNHCR's Senior Management Committee on 23 August 1990. Following discussions in this forum, the High Commissioner decided to respond positively to the request. A telex conveying the decision to Colombo specified that assistance would "in the main be to returnees who have already benefited from UNHCR's Limited Assistance Programme 1987-1990" and would be limited to contributions received from interested governments for the purpose." It added that extensive preparations to implement the High Commissioner's decision would be required including ascertaining the number, location and composition of target beneficiaries and assessing their needs.

151. A background paper from the Regional Bureau was submitted to the Senior Management Committee at the time of the initial discussions about involvement. The paper sets out several reasons why an on-going UNHCR involvement in assisting internally displaced persons would be justified. These asserted UNHCR's:

- continuing responsibility to ensure that returnees who had already been assisted did not again become refugees;
- the sense of security that a UNHCR presence would engender;
- the opportunity to explore the role of "preventive" diplomacy" on the basis of a request emanating from both the country of origin and the country of asylum for measures which would prevent a further mass exodus.

152. The background paper also listed six arguments for UNHCR not to be involved. However these stressed more the need for UNHCR's action to be limited, linked to promised contributions from India and based on a clear understanding that UNHCR would not get involved with the wider problems of Sri Lanka's internally displaced (estimated at the time at 800,000 persons).

153. In the series of internal meetings held to discuss the programme, it was noted⁷⁶ that "generally speaking, UNHCR had a legal basis to assist returnees and to promote conditions for the return of asylum seekers in the form of EXCOM conclusions No.18 of 1980 and No. 40 of 1985." However, questions were raised as to whether there was a legal basis to assist Sri Lankans within their own country; to what extent Sri Lankan returnees should be assisted once they had returned, and whether UNHCR should be undertaking activities in a country of origin aimed at reducing the flow of asylum-seekers.

⁷⁶ Note for the file recording the conclusions of the series of meetings held in November 1990 to discuss the programme, signed C.J. Carpenter and dated 21 November 1990.

154. The meeting concluded that, although a legal basis for these activities did exist, it was thin and should UNHCR's activities continue over a period of time, a legal authorization should be sought from the Secretary-General.

155. The project provided for emergency assistance through the establishment of two ORCs and six Open Relief Sub-Centres at various locations in Mannar District where there was a high concentration of returnees and displaced. UNHCR transported emergency food items supplied by the Sri Lankan authorities, provided water and sanitary facilities, temporary shelter and primary health care and distributed emergency household packs.

156. The justification for the programme continued to be a subject of discussions at UNHCR headquarters.⁷⁷ The programme and options for the future were extensively reviewed in a series of meetings chaired by the Acting High Commissioner. Conclusions reached included that an appeal should be issued covering activities for a further five months but that there should be:

- a further review after three months;
- discussions with the Secretary-General's Office to seek his authorisation, and
- encouragement given to ICRC to take over from UNHCR as soon as the circumstances permitted.

157. In the background of the subsequent review⁷⁸ conducted by an independent consultant in 1991, the strong views in Headquarters both for and against the programme are described. He attributes these views to a sense that UNHCR was becoming re-involved in a situation from which it had hoped to disengage. He also describes general unease about the prolongation of a country programme, which had throughout dealt exclusively with returnees and not with refugees.

158. The review, reportedly highly controversial at the time, concluded that the programme objectives had been achieved and that the success would be "severely jeopardized were the programme to be terminated now. Cut off from both relief and safe refuge, many returnees and internally-displaced persons would seek to flee to India and elsewhere." The evaluator also recommended that the programme should not be regarded as an "open-ended commitment for indefinite prolongation" and urged UNHCR to point out to the Sri Lankan Government that it could not become "the 'de facto' long-term distributor of emergency relief to, and custodian of, populations who are ultimately a Sri Lankan responsibility."

159. UNHCR became progressively more and more involved with Sri Lanka's growing populations of IDPs, many of whom were to be found in the same areas to which returnees were returning. This arrangement was formalized in a 1993 Memorandum of Understanding between UNHCR and the Sri Lankan Government. The extension of UNHCR's mandate to cover assistance to IDPs in Sri Lanka was agreed by the UN Secretary General in 1991 and reaffirmed in a March 1997 letter

⁷⁷ A telex to the Branch Office dated 30 October 1990 raised a number of issues for clarification and attached a note from the Division of International Protection, which asked questions both of a programme and protection nature.

⁷⁸ A. Simmance, "Review of the UNHCR programme of immediate relief assistance to returnees and displaced persons in Sri Lanka," Central Evaluation Unit, May 1991.

from the Secretary General's office, stating that UNHCR "may continue to coordinate the UN efforts for the humanitarian and relief assistance for internally displaced persons in Sri Lanka."

160. UNHCR enjoys a rather unique position in Sri Lanka. It remains the only country where UNHCR has a formal designation by the Secretary-General to coordinate UN assistance to IDPs, giving it a de facto humanitarian co-ordination role. Historical tensions with the ICRC and some of the UN partners as a result of this seem to have largely passed, and UNHCR enjoys good standing with authorities and its agency partners.

Uganda

... the situation would seem to warrant a renewed exploration of the possibility of UNHCR becoming involved, particularly in the area of IDP camp management in which the IASC has recognized the comparative advantage of UNHCR both in terms of experience and capacity.

Office of the Special Representative of the Secretary-General on IDPs

Summary findings: In Uganda, until recently neither the Bureau nor the Representative chose to engage with IDPs. UNHCR resisted pressure from the UN Office of the Special Representative of the Secretary-General on IDPs and other parties to become more active with IDPs. UNHCR policy criteria were looked at carefully to justify UNHCR's decision not to be involved with IDPs at any significant level. Recently, a commitment was made to become more engaged in protection aspects of the IDPs, within budgetary constraints.

161. Civil war uprooted 265,000 Ugandans during 1979.⁷⁹ In July, following a request from the Ugandan Government, the Secretary-General asked the High Commissioner to coordinate a programme of Immediate Humanitarian Assistance for the displaced persons within the country and the voluntary repatriation of those outside. Food, shelter and household goods were provided under the programme. By March 1981, the special operation had ended with the transfer of authority to the Special Representative of the Secretary-General.

162. The Acholpi refugee camp, established under the auspices of the UNHCR in 1994, was located in southern Kitgum, approximately one hundred miles from the Sudan border. It was home to some 16,000 southern Sudanese refugees, principally Sudanese Acholis who fled in 1994. The Lord's Resistance Army (LRA) attacked the camp three times killing about 22 refugees in July 1996 and clubbing a refugee to death in February 1997.⁸⁰

163. In 1996, in Kitgum and other places, the Government of Uganda adopted a policy of concentrating the IDPs into 'protected camps'. While the intent of this strategy was to increase their security of IDPs and reduce the risk of attack by LRA cadres, this objective was not achieved. Many IDP camps continued to be regularly attacked, have their food stocks looted, their children abducted and adults indiscriminately killed.⁸¹

164. Interlocutors support indications from Protection Reports on Uganda⁸² between 1996 and 2002 that, despite large numbers of IDPs, neither sub nor field offices were involved in the programmes to assist and protect IDPs. The issue was considered a non-core function of the office in Uganda. The World Food Programme, UNICEF, OCHA and NGOs provided assistance. UNHCR participated in a workshop

⁷⁹ UNHCR's Operational Experience with IDPs, UNHCR, DIP, September 1994.

⁸⁰ The anguish of Northern Uganda results of a field-based assessment of the civil conflicts in Northern Uganda Robert Gersony for USAID Mission, Kampala August 1997.

⁸¹ UN system response to the IDP situation in Uganda and recommendations for enhanced support to the national and local authorities. A Mission Report of the Internal Displacement Unit, August 2003.

⁸² See UNHCR Protection Reports 2002, 2001, 2000, 1997 and 1996.

organized by the Government of Uganda to discuss the problem of IDPs in the country in 1999 but was not a significant contributor to IDP programmes.

165. A Background Note⁸³ dated 5 January 1998 indicated “that UNHCR already has experience with respect to internal displacement in Uganda, based on its prior involvement with IDPs from 1979-1981, which might be usefully shared in inter-agency consultations on addressing the protection and assistance needs characterizing the current IDP situation.”⁸⁴ Further, the Note indicated that “In 1996 UNHCR declined a request from the Government of Uganda to extend its activities for Sudanese refugees in northern Uganda to also cover the IDP population in these areas.”⁸⁵

166. The Note stated “Furthermore, clarification would be useful on the role of UNHCR, of which the response from the field makes no reference ... the situation would seem to warrant a renewed exploration of the possibility of UNHCR becoming involved, particularly in the area of IDP camp management in which the IASC has recognized the comparative advantage of UNHCR both in terms of experience and capacity.”⁸⁶ The areas assessed as requiring greater attention were protection, women, children, other vulnerable populations, documentation, income generating activities and protection of property rights. Interlocutors said that in Uganda there was a tendency for UNHCR to keep separate from the UN family which was active in many areas.

167. An email⁸⁷ from the Senior Legal Adviser in UNHCR’s Division of International Protection, dated February 1998, indicated that the Note illustrated the inadequacy of existing responses and the details of outstanding protection needs of IDPs. It also called for a considered and definitive response to the IDP situation. The email stated that the Ugandan IDP situation could represent an opportunity for a collaborative UNHCR input under the coordination of the Inter-Agency Standing Committee-Working Group (IASC-WG). The Senior Legal Adviser says that whatever the historical reasons for UNHCR’s detached stance on this issue, it appeared that a fresh and objective reappraisal of its position was called for. Also, UNHCR would be hard pressed to justify the continued aloofness, given the urgency of the humanitarian and protection needs of the IDPs in Uganda, and the call for UNHCR’s involvement after a report of a visit⁸⁸ by Mr. Francis Deng.

168. A follow-up email two weeks later implies that no immediate action was taken on the issue. No information was available to indicate that this debate was continued within UNHCR at the time. OCHA Mission and Training Reports⁸⁹ from the Internal Displacement Unit subsequent to this debate make little or no mention of UNHCR. Interlocutors indicated that one reason there was the scant interest from

⁸³ Background Note: Internal Displacement in Uganda; Office of the Representative of the Secretary-General on IDP in consultation with the UN Disaster Management Team of Uganda dated 5 January 1998.

⁸⁴ Ibid at p 3.

⁸⁵ Ibid at p 2.

⁸⁶ Ibid.

⁸⁷ Senior-Legal Adviser in UNHCR’s Division of International Protection to Deputy Representative

⁸⁸ Mission 11 August 1998.

⁸⁹ For example: 29-31 March 1999 Workshop on the UN Guiding Principles on Internal Displacement Kampala, Uganda, April 2002 Report, Mission to Uganda; August 2003 Mission Report of the Internal Displacement Unit.

UNHCR was that agencies like the World Bank, UNDP and other UN agencies were all very active with the Government of Uganda.

169. There is no indication that UNHCR was asked to assume a leadership role in assisting IDPs in Uganda. It was recommended that "OCHA may want to continue a dialogue with the Office of the Prime Minister on this issue in order that durable solutions are more comprehensively dealt with in the policy. The Government has indicated that the draft policy will go before Cabinet by the end of the year [2003]. It is hoped that this timeline will be adhered to and it would be desirable if the Humanitarian Coordinator uses his good offices to encourage the highest levels of Government to ensure that the policy be endorsed as early as possible. Once the policy is endorsed, a major challenge will be the implementation of the policy."⁹⁰

170. The IDP issue was again under discussion in UNHCR HQs after CNN and the BBC reported on a brutal attack by the LRA against an IDP camp in Northern Uganda in early 2004. Informal discussions took place between the field and HQs. In discussions with the UN family in Uganda and UNHCR, it was agreed that UNHCR should not engage with IDPs, other than to continue occasional contribution of non-food items. The reasons for this included that:

- UNHCR had not been asked;
- it did not have the resources;
- the IDPs were no longer in mixed refugee settings; and
- UNHCR would not be able to do much as the humanitarian UN could not protect IDPs from the LRA.

171. Internal correspondence from April 2004 indicated that "This is not an easy situation, ... We are also having problems with LRA and have had attacks against refugees. Unless there is a satisfactory security and diplomatic approach, things are only going to get worse."⁹¹ The two underlying themes to any proactive UN involvement with IDPs in Uganda are access and security. Comments on the IDP mission report⁹² indicated that physical security was the issue for IDPs and that this should not be confused with protection that can only be achieved when access and security are assured by a competent military force.

172. It is acknowledged in the same internal correspondence that repatriation to the Sudan will not do well without a successful resolution to the LRA problem. The LRA could physically prevent returns and refugees had explicitly cited them as one of their biggest fears, having been targeted by them on several occasions.

173. A NGO briefing in May 2004 at Headquarters recognized that there was a lack of protection expertise in general being brought to bear on the North Uganda situation and a lack of leadership and direction in the inter-agency protection working group. ICVA felt that the overall protection issues were broader than UNICEF could manage and suggested more leadership in the Protection Working

⁹⁰ UN system response to the IDP situation in Uganda and recommendations for enhanced support to the national and local authorities. A Mission Report of the Internal Displacement Unit, August 2003.

⁹¹ Email to DIP, 8 April 2004.

⁹² 24 March 2004.

Group from UNHCR. UNICEF responded that they were being slow in gearing up but did not have the resources. UNHCR said that the message or request for any greater leadership in the Protection Group from UNHCR would have to come with more agreement and backing from the whole UN Country Team and the Emergency Relief Co-ordinator (ERC).

174. Other issues discussed at the briefing included:

- who is the lead UN agency on protection;
- a need for good humanitarian presence on the ground, where security allows;
- a need for accurate protection information-gathering and analysis;
- a need for credible and accurate protection and HR reporting;
- a need to ensure strong UN advocacy role and partnerships.

175. The IASC-WG Chairperson said that agencies need to work towards an emergency mode and increase the collaborative approach. He appealed for UN agencies and NGO headquarters to support the Country Team, while stressing the importance of good information analysis.

176. In June 2004, internal correspondence indicates that without making any operational commitment there was “a bit of a reorientation of direction by UNHCR to play a part in the fuller picture” of the North Uganda situation and not to try to keep separate from the IDP issue. An Inter-Agency Internal Displacement Division Mission to Uganda⁹³ recommended UNHCR be encouraged to play a greater role in the development and support of the protection strategy, including making available a senior protection officer as advisor to the UNCT or HC. UNHCR’s Representative has made a commitment⁹⁴ to “become more engaged in protection aspects of the IDPs, within budgetary constraints”.

⁹³ 30 August – 3 September, 2004

⁹⁴ Email correspondence, 22 October, 2004.

Findings

Within UNHCR, who takes the decision of engagement or non engagement and at whose request? Is the process transparent?

177. The review shows clearly that the High Commissioner is, by far, the most significant actor in taking the decision on UNHCR's involvement with IDPs. The catalytic role that the High Commissioner plays appears to be crucial, not only to the decision to engage, but also to the ongoing operation. In the recent engagement with IDPs in Afghanistan, the High Commissioner was involved in high level discussions with the Secretary-General and was readily accessible to the Chief of Mission. The potential for prompt operational decision making was significantly enhanced as a result. It was the High Commissioner's assessment in Iraq that there were new elements in the analysis that led UNHCR to offer to take the lead on IDPs, despite a previous public position that the UNHCR would not be actively engaged in IDP matters.

178. In 1990, the High Commissioner decided to respond positively to the request from the UNHCR Representative in Sri Lanka following discussions in the Senior Management Committee (SMC). Yet in 2000, the High Commissioner's position on Angola was not supported by the SMC but still prevailed. In Colombia, a request from the field was maintained constantly until engagement was agreed to by the High Commissioner in 1998. In taking the decision, the High Commissioner often consults with a variety of actors, including at times the Secretary-General, officers in the field and governments. However, on occasion the High Commissioner has acted unilaterally.

179. When it comes to UNHCR's decisions on non or limited engagement, the managers in the Regional Bureaux and the Representatives in the field are the most significant actors. Decisions on the limited engagement of UNHCR have been taken locally without reference to HQs, in for example in Afghanistan during the Taliban times. There is a degree of polarization amongst UNHCR staff on this issue amongst those managers who believe UNHCR should be more upbeat and forceful about engaging in IDP situations and those who are not in favor of being proactive. In Liberia the reluctance to engage more intensely was primarily based on lack of capacity and resources and in Uganda in the 1990s there was a reluctance to engage for security and resource reasons.

180. Requests for UNHCR to engage with IDPs come from many different stakeholders. In the country studies, the initiatives that give rise to the decision to become engaged come from governments, the General Assembly, the Secretary-General or staff from the field. UNHCR received a request from the Government of India in August 1990 to explore the possibility of channelling international assistance to the internally displaced Tamils in Sri Lanka. In 1997, the High Commissioner received a request from the Foreign Minister of Colombia for UNHCR "to consider the possibility of establishing a permanent presence in Colombia, to provide support to the Government in its efforts to strengthen its response to the problems of internal displacement." The Taliban provincial authorities, in need of international assistance, requested UNHCR to provide the aid in Herat, which UNHCR did. In 2000, in Angola political pressure from an important donor government was the most

significant influence on the decision to engage and overrode other considerations and in-house opposition.

181. Other United Nations agencies, nongovernmental organizations and internal staff pressures have also been influential in presenting the request for UNHCR engagement with IDPs. Requests for UNHCR to lead an operation or for UNHCR to play a more significant role in the UN Country Team also come from OCHA. Representatives of UNDP, UNICEF and UNHCHR wrote to UNHCR's Director of the Bureau for the Americas and the Caribbean, advocating for UNHCR's involvement with IDPs in Colombia. In Uganda requests from both Government and UN agencies for UNHCR to become more active were declined or not followed up.

182. In Angola, there was a lack of transparency in the decision-making process and some staff members were isolated from the discussion on the issue of engagement. However, there is no discernable pattern that would lead to a conclusion that there is a deliberate lack of transparency in the process. It would appear from the country studies that transparency in the decision-making process is not a significant issue. Press releases, internal and external correspondence, evaluations and notes of discussions, relating to UNHCR's decision-making, generally indicate a high level of visibility in the process.

To what extent are existing policy criteria used in operational decision-making?

183. UNHCR's use of the existing policy criteria in operational decision-making is uncertain, inconsistent and unpredictable. The existing criteria are not systematically used as a reference point or as the crucial tool around which the decision is centred. Policy criteria were used to support a decision already made in Afghanistan after September 2001, and political decisions appeared more significant than an assessment of criteria. During the Taliban rule, decisions to assist were only loosely grounded in the criteria. In Angola, the political decision to become engaged was made well in advance of a thorough assessment against the criteria. The Iraq case study indicates that UNHCR used lack of capacity and experience as the criteria to decline a role with IDPs, but later took up a leadership role.

184. When referred to, UNHCR's policy criteria remain capable of being interpreted broadly, according to the situation, or used by decision-makers to give too much emphasis to a particular criterion instead of assessing each criterion. In this way, policy and guidelines as variously interpreted can support subjective views. This is best illustrated by the Afghanistan study where in 1996 and 1997 quite different decisions on engagement with IDPs were taken in the western and eastern parts of the country without strict adherence to criteria.

185. In decisions not to engage, insufficient resources are often quoted as a major reason why UNHCR can take no action. As UNHCR is sometimes struggling to implement its mandate for refugees, some staff members argue that it should not engage with IDPs unless refugees are fully assisted and protected. Others consider that funds will follow after a limited engagement, a satisfactory proposal and proactive fundraising. This debate takes place in the context of resource allocation and Office prioritization.

186. Some argue that the existing policy criteria are flexible and pragmatic. They offer UNHCR ample opportunity to use them in ways to justify either engagement or non-engagement depending on resources and circumstances.

187. The formal approval of the Secretary-General has come at different stages in the decision-making process and has sometimes even occurred retrospectively. Today, the consent of the Secretary-General is not a requirement in operations, where the returnee population and IDPs are indistinguishable. In the early stages of UNHCR involvement, or where contributions to IDPs were not substantial, some decisions were taken locally without reference to the Secretary-General. In Sri Lanka in 1990, the legal basis for engagement with IDPs was considered thin. It was decided that should UNHCR's activities continue over a period of time, a legal authorization should be sought from the Secretary-General.

188. It is rarely possible to operate with IDPs without the consent of concerned states or authorities and this aspect of the policy criteria has not been at issue in the country studies.

189. The fact that UNHCR has the mandate to protect refugees by assisting and seeking solutions has been used as a major factor in the decision to engage with IDPs. Equally, UNHCR has at times stated it did not have the mandate to protect, assist and seek solutions for IDPs, but later determined otherwise as in Columbia and Iraq. Sharp reversals of UNHCR's commitment to IDPs, even after a significant change in political circumstances, and a perception that decisions were made without a comprehensive analysis of the situation, have eroded UNHCR's credibility, especially externally. The evident tension between agencies that resulted in the correspondence quoted in the Iraq case study supports this finding. Although serious frictions in the Angolan operation were eventually overcome, a consistent approach would have prevented difficult relationships developing.

190. In certain situations, there are mixed populations of returned refugees and IDPs at risk. This is almost always the justification for involvement, even though in some countries such as Afghanistan, IDPs have not fled for refugee-related reasons but from drought or other natural disasters. In some circumstances, it is difficult to draw a meaningful distinction between refugees and IDPs living in a border region. In Iraq, UNHCR intended to draw this distinction and aimed to assist only refugees. Uncertainty, confusion and security problems were the potential outcome of such a decision. Where IDPs are returning to the same areas as refugees, UNHCR considers it a natural extension of its mandate to assist and protect. However, even in these circumstances there is no consistent approach. In situations where the population is not mixed the argument is made that IDPs may become refugees unless they are supported, or that the IDPs are in a 'refugee-like situation'.

191. The country studies indicate that the issue of whether UNHCR's work with IDPs would interfere with or harm the right to asylum has been a debate within UNHCR. This was given different levels of prominence and was not always articulated as criteria. Those in the field appear to take a more liberal view on this issue and the topic clearly divides UNHCR staff members.

At what point does UNHCR make decisions about involvement with IDPs?

192. There has been no consistency in UNHCR's timing of a decision to become engaged with IDPs. Major influences on the timing of UNHCR's decisions include significant political changes, the level of public and political interest, and the timing and intensity of media coverage. In Angola, political pressure from the President of the Security Council appeared to be the determining factor leading to involvement and dictated the timing of UNHCR's decision. After several years of finding reasons for non-engagement, political pressure increased considerably and UNHCR decided to engage with IDPs. The change in politics and Taliban's loss of power after September 2001 resulted in a change of fortunes for the UNHCR operation in Afghanistan and a decisive engagement with IDPs resulted. In Iraq, the low number of refugees leaving the country after the change in government was influential in the timing of the decision to engage.

193. Similarly, in a protracted refugee situation and/or post-conflict situation, the changes in political circumstances are crucial. In Liberia, the onset of a refugee repatriation operation was an important factor that influenced the timing of the decision to assist IDPs. Equally important, and often linked to political developments in relation to the timing of a decision, is when the funding becomes available for an operation. The Afghan operation benefited from strong donor engagement in expectation of major refugee outflows, permitting a decisive engagement with IDPs.

194. There was some sense of foreboding in relation to IDPs amongst some in UNHCR because they believe that under the Guiding Principles, the manner and process for disengaging with IDPs lacks clarity. Interlocutors saw the question of disengagement as an important timing issue and indicated that because disengagement appears problematic, UNHCR may be reluctant to commence a project with IDPs. Where there is a comprehensive operational plan leading to a durable solution, the reluctance is generally overcome. As in Herat, Afghanistan in 1997, disengagement becomes even more problematic where government officials become dependent on UNHCR funds due to a lack of access to other significant donor funds.

If UNHCR does get involved, what is the nature and extent of the involvement?

195. Within the collaborative response, the nature and extent of the involvement of UNHCR ranges from that of being fully operational, with extensive protection and assistance, to that of acting as a coordinating agency. In the country studies, UNHCR offered support to the UN Resident or Humanitarian Coordinator, gave non-food items to IDPs and acted as an advocate for IDPs. The variety of roles or various degrees of involvement is not an impediment to operations. Unless UNHCR withdraws abruptly or unilaterally outside the collaborative approach, adjusting to suit the circumstance does not appear to have caused difficulty.

196. However, there has been criticism of UNHCR's ambivalence and lack of defined parameters in operations in some countries, for example Liberia and Iraq. The parameters of the UNHCR involvement with IDPs are not always clear within an operational framework. In the west of Afghanistan, although parameters were made clear in 1996, the withdrawal was misunderstood because local expectations were built by initial engagement. In Uganda and Liberia, where requests were made for a

more active response by UNHCR, the lack of a thorough needs assessment was cited as a major obstacle, not only to UNHCR but to the effectiveness of the collaborative approach.

197. UNHCR has at times intervened in order to alleviate dire humanitarian situations of populations that may not have been properly 'of concern' to it. Some argue that there are positive aspects of ad hoc approaches and that by acting beyond its strict mandate, UNHCR saves lives. Others argue that such an ad hoc approach is not sustainable and reflects a lack of clear policy direction and understanding of legal obligations. In many countries UNHCR becomes only partially committed to IDPs. It may be difficult to explain why UNHCR gives non-food items to IDPs but does not proactively advocate for them, or why providing limited assistance is possible for a group but protection for the same group is not.

To what extent is UNHCR engaged in inter-agency discussions on IDPs throughout the process? How are UNHCR's decisions communicated to external actors regarding its role with IDPs?

198. UNHCR is formally committed to the collaborative response. However, UNHCR's level of participation in the collaborative approach and in inter-agency discussions on IDPs has varied. UNHCR's relations with other agencies and NGOs are strained by the perceived ambivalence and unpredictability of the organization's position and process. UNHCR is sometimes perceived as a "unilateralist" or "arrogant" organization and described by some interlocutors as a generally reluctant participant in inter-agency consultations. In Afghanistan during the Taliban period, there was a demand for clarity about UNHCR's policy on IDPs from NGOs and other agencies. In Iraq, tensions among actors were created because of an initial lack of UNHCR participation followed by an attempt to become lead agency.

199. Unclear parameters of involvement, and in certain cases, inconsistent or cautious approaches by Representatives, have created confusion. The Liberia country study revealed that decisions on the nature and extent of assistance to IDPs were decided by UNHCR prior to inter-agency consultations. External interlocutors felt that UNHCR's limited programming did not match its political stance.

200. Particularly when UNHCR becomes a significant player, decisions are eventually communicated formally to external actors. Decisions on limited and ad hoc involvement have proven difficult to explain. While an ad hoc system has advantages, especially in the field and in the short term, it can also be a cause of tensions between organizations, confusion with governments and false expectations amongst IDPs. Generally, UNHCR has had difficulty justifying its abrupt reversals of position on IDP involvement.

Matters for consideration

201. Several significant issues have arisen out of the country studies and our discussions with interlocutors. Some matters may be broader than the scope of the terms of reference of this review. However, they are matters which need to be further considered by the Office.

- UNHCR needs to ensure its position on IDPs is clearly articulated, based on its policies and guidelines, each time the situation to ensure internal and

external clarity in relation to the position of UNHCR on IDPs. This would make unequivocal UNHCR's commitment to protect IDPs who are of concern to UNHCR within the framework of the collaborative response.

- UNHCR's involvement with IDPs can and should vary in nature and extent, depending on circumstances. Parameters of involvement should be clearly spelt out in each IDP situation to ensure a more predictable division of labour within the collaborative response. In order to make the collaborative response effective, it is important that UNHCR, contribute to the inter-agency process in the field at an early stage so that decisions on IDP issues are informed by facts emanating from the inter-agency process.
- Within the limits of its policy, UNHCR should systematically advocate for protection and political and financial assistance for IDPs, including in situations where UNHCR is not involved operationally.
- Within the framework of the collaborative response, consistency in engagement and coherence in policy is best achieved by systematically explaining the reasons for entering or not entering each IDP situation. A situational analysis should include what needs to be done and describe to what extent UNHCR can do it and, if unable, what UNHCR could contribute to protect and assist IDPs.
- UNHCR needs to take steps to ensure that its involvement with IDPs, within a clear strategic and operational framework, is well understood and incorporated within each of its Regional Bureaux and Field Offices.
- There is a need to develop better in-house coordination in relation to IDP issues. A structure capable of providing a stronger focus on IDP within UNHCR, which would report to the Assistant High Commissioner and support the Bureaux and Field Offices, may be one way of achieving coordination and ensuring consistent and good quality situational analysis in relation to IDPs.

Appendix 1 - Terms of reference

A Review of UNHCR's involvement in IDP situations

UNHCR's role and responsibilities with regard to the internally displaced has evolved over the past decades. Critics, both within and outside UNHCR have described UNHCR's approach to IDP situations as unilateral, unpredictable, not clearly articulated and not sufficiently linked to existing criteria.

For several years, there has been recognition of the need to address this problem. But, as the new WG acknowledged at its first meeting, there has not been a serious analysis of the variables that have influenced or determined UNHCR's involvement in IDP situations in recent years.

The purpose of this review is to fill this gap in our knowledge, and to establish a more realistic understanding of the possibilities for UNHCR to be more consistent and predictable in relation to its involvement in IDP situations.

The review will focus primarily on the following:

- Who takes the decision of engagement (or non engagement) and at whose request? Is the process transparent?
- To what extent are existing policy criteria used in operational decision making?
- At what point in time does UNHCR make decisions about involvement with IDPs?
- If UNHCR does get involved, what is the nature and extent of the involvement?
- To what extent is UNHCR engaged in inter-agency discussions on IDP throughout the process? How are UNHCR's decisions communicated to external actors regarding its role with IDPs?

The review will be conducted by a team comprised of an independent consultant and a UNHCR/EPAU staff member between 1 July and 26 August 2004.

The review will be undertaken from Headquarters and will include a review of documentation, archival research and interviews with key informants. A report, supported by case studies (Angola, Burundi, Afghanistan, Iraq, Liberia, Uganda, Colombia, Sri Lanka, and if time allows Sudan) is expected to provide overall lessons learned and implications for UNHCR's further involvement with IDP populations.

The evaluation will be managed by EPAU and the report will be submitted to the IDP Working Group and may be used as a basis for a submission to the Operational Policy Committee and possibly to the Senior Management Committee.

EPAU, 1 July 2004

Appendix 2 - Selected formal documents relating to IDPs.

Statute of the Office of the United Nations High Commissioner for Refugees:
Approved by the UN General Assembly resolution 428 (V) of 14 December 1950

Article 9: "The High Commissioner shall engage in such additional activities...as the General Assembly may determine within the limits of the resources placed at his disposal"

UN General Assembly A/RES/2956 of 12 December 1972:

2. Requests the High Commissioner (for Refugees) to continue to participate, at the invitation of the Secretary General, in those humanitarian endeavours of the United Nations for which his office has particular expertise and experience.

UN General Assembly resolution 47/105 of 16 December 1992

Welcomes, in this context, efforts by the High Commissioner, on the basis of specific requests from the Secretary-General or the competent principal organs of the United Nations and with the consent of the concerned State, to undertake activities in favour of internally displaced persons, taking into account the complementarities of the mandates and expertise of other relevant organizations;

IOM/FOM/33/93: UNHCR's Role with Internally Displaced Persons (28 April 1993)

UN General Assembly resolution 48/116 of 20 December 1993:

"12. Reaffirms [the General Assembly's] support for the High Commissioner's efforts, on the basis of specific requests from the Secretary General or the competent principal organs of the United Nations, and with the consent of the concerned State, and taking into account the complementarities of the mandates and expertise of other relevant organizations, to provide humanitarian assistance and protection to persons displaced within their own country in specific situations calling for the Office's particular expertise, especially where such efforts could contribute to the prevention or solution of refugee problems."

UN General Assembly resolution 48/116 of 20 December 1993

14. Recognizes the need for the international community to explore methods and means better to address within the United Nations system the protection and assistance needs of internally displaced persons, and calls upon the High Commissioner to engage actively in further consultations on this priority issue with the Department of Humanitarian Affairs of the Secretariat and the Special Representative of the Secretary General on Internally Displaced Persons, and with other appropriate international organizations and bodies, including the International Committee of the Red Cross;

UNHCR's Executive Committee Conclusion No. 75 of 1994:

“(j) Recognizes that resolution 48/116 adopted by the United Nations General Assembly on 20 December 1993 ... continues to provide an “appropriate framework for the involvement of the High Commissioner in situations of internal displacement”

(k) Encourages the High Commissioner to continue the efforts of (his) Office to put into action its internal criteria and guidelines for UNHCR involvement in situations of internal displacement, as an important contribution towards a more concerted response by the international community to the needs of the internally displaced.

(l) Emphasizes that activities on behalf of internally displaced persons must not undermine the institution of asylum including the right to seek and enjoy in other countries asylum from persecution.”

UNHCR's Operational Experience with Internally Displaced Persons DIP (1 September 1994)

UN General Assembly resolution A/RES/49/169 of 23 December 1994

10. Calls for a more concerted response by the international community to the needs of internally displaced persons and in accordance with its resolution 48/116, reaffirms its support for the High Commissioner's efforts, on the basis of specific requests from the Secretary General or the complementarities of the mandates and expertise of other relevant organizations to provide humanitarian assistance and protection to such persons, emphasizing that activities on behalf of internally displaced persons must not undermine the institution of asylum, including the right to seek and enjoy in other countries asylum from persecution.

13. Acknowledges the continuing close cooperation between the High Commissioner and the representative of the Secretary-General on internally displaced persons in the exercise of his mandate, and recognizes the importance of their close cooperation, and of cooperation with the International Committee of the Red Cross, with respect to prevention, protection, humanitarian assistance and solutions;

UN General Assembly resolution 49/174 of 23 December 1994

9. Calls upon Member States and intergovernmental and non-governmental organizations to continue to provide the necessary support and financial assistance to the High Commissioner to enhance her capacities and abilities to implement emergency operations, care and maintenance activities and repatriation and reintegration programmes for the benefit of refugees, returnees and, as appropriate, certain groups of internally displaced persons;

UN General Assembly resolution 15/75 of 12 December 1996

13...recalls that the Office of the High Commissioner may be called upon by the appropriate organs of the United Nations and with the consent of the State concerned to extend its assistance to other groups, such as internally displaced persons, recognizing that such involvement may contribute to the prevention or mitigation of refugee situations, yet emphasizing that activities on behalf of internally displaced persons must not undermine the institution of asylum, including the right to seek and to enjoy in other countries asylum from persecution;

IOM/FOM/87/97: UNHCR's Role with Internally Displaced Persons (12 December 1997)

UN General Assembly resolution 53/125 of 9 December 1998

16. Notes the relevance of the Guiding Principles on the Internal displacement, reaffirms its support for the role of the Office of the High Commissioner in providing humanitarian assistance and protection to internally displaced persons, on the basis of specific requests from the Secretary General or the competent organs of the United Nations and with the consent of the State concerned, taking into account the complementarities of the mandates and expertise of other relevant organizations, and emphasizes that activities on behalf of internally displaced persons must not undermine the institution of asylum;

UNHCR's Executive Committee Conclusion No. 87 of 1999:

"(t) Recalls Conclusions No 75 (XLV) on internally displaced persons; takes note of resolution 53/ 125 adopted by the United Nations General Assembly in December 1998; reiterates the relevance of the Guiding Principles on Internal Displacement, (1) and reaffirms its support for UNHCR's role with internally displaced persons on the basis of criteria specified in the General Assembly."

Introduction to International Protection: UNHCR Emergency Management Training Program (1 July 1999)

IASC Policy Paper on Protection for IDPs (6 December 1999)

UN General Assembly resolution 54/146 of 17 December 1999

17. Reiterates its support for the role of the Office of the High Commissioner in providing humanitarian assistance and protection to internally displaced persons on the basis of criteria enumerated in paragraph 16 of its resolution 53/125, and underlines the continuing relevance of the Guiding Principles on Internal Displacement;

Handbook for Applying the Guiding Principles on Internal Displacement (The Brooking Institution Project on IDPs, 1999)

Field Practice in internal displacement. Examples from UN Agencies and Partner Organizations of Field-based Initiatives Supporting Internally Displaced Persons. (IASC, 1999)

Internally Displaced Persons: The Role of the United Nations High Commissioner for Refugees (6 March 2000)

UN General Assembly resolution 55/76 of 4 December 2000

3. Reaffirms its support for the activities of the Office of the High Commissioner, in accordance with the relevant General Assembly resolutions, on behalf of returnees, stateless persons and internally displaced persons;

UN General Assembly resolution 55/74 of 4 December 2000

20. Reiterates its support for the role of the Office of the High Commissioner in providing humanitarian assistance and protection to internally displaced persons on the basis of criteria enumerated in paragraph 16 of its resolution 53/125 of 9 December 1998, and underlines the continuing relevance of the Guiding Principles on Internal Displacement;

High Commissioner's Speaking notes from Oslo: UNHCR's Policy on Internally Displaced Persons (23 May 2001)

IOM/FOM/77/2001: Operational Guidelines for UNHCR's Involvement with Internally Displaced Persons (IDPs) (24 September 2001)

IOM/046/2004/FOM 048/2004: Involvement with IDP situations: a process for decision-making

Appendix 3 – Acronyms

DHA	Department for Humanitarian Affairs
DIP	Department of International Protection (UNHCR)
EPAU	Evaluation and Policy Analysis Unit (UNHCR)
EXCOM	Executive Committee (UNHCR)
FAO	United Nations Food and Agriculture Organization
IASC	United Nations Inter-Agency Standing Committee
IASC – WG	United Nations Inter-Agency Standing Committee-Working Group
ICRC	International Committee of the Red Cross
ICVA	International Council of Voluntary Agencies
IDP	Internally Displaced Person
IOM	International Organization for Migration
IOM/FOM	Inter-Office Memorandum/ Field-Office Memorandum (UNHCR)
IWG	Internal Working Group
OCHA	Office for the Co-ordination of Humanitarian Affairs
OHCHR	Office of the High Commissioner for Human Rights
UCAH	United Nations Humanitarian Assistance Coordination Unit
UNAMI	United Nations Assistance Mission for Iraq
UNICEF	United Nations Children’s Fund
UNITA	National Union for the Total Independence of Angola
UNOPS	United Nations Office for Project Services
WFP	World Food Programme