

# 8 Looking to the future

Globalization poses new challenges in all domains of international life, and the world of forced migration is no exception. In the coming decades states, international agencies and NGOs face multiple challenges in relation to the problem of human displacement. How effectively they surmount these hurdles will determine the viability of international refugee protection in the years to come.

The challenges ahead can be listed as follows. First, states must be persuaded to reconsider their restrictive asylum policies. Second, it must be ensured that the core principles of international refugee law, particularly that of *non-refoulement*, are not eroded. Third, the security of refugees, particularly women and children, and humanitarian workers, must be enhanced. Fourth, problems relating to protracted situations and the ‘warehousing’ of refugees must be resolved. Fifth, host states must be prevented from undermining the principle of voluntary repatriation in the absence of responsibility-sharing by the international community. Sixth, the problem of smuggling and trafficking of asylum seekers must be addressed. Seventh, the root causes of refugee flows must be given more attention than they receive at present. Eighth, UNHCR must respond to numerous supervisory, accountability and partnership challenges, besides clearly defining its role vis-à-vis internally displaced people.

A number of initiatives have already been taken by states and international agencies, and in particular by UNHCR, to meet these challenges. This book has attempted to assess such efforts in the context of key political and socioeconomic developments over the past few years. Decolonization, the end of the Cold War, rapid globalization, the growing North-South divide, the proliferation of internal conflicts and the so-called ‘war on terror’ have all affected the policies of states towards refugees and internally displaced persons. They have also led to a change in perceptions of the role of international agencies, including UNHCR, in dealing with displaced people.

Despite these efforts, much remains to be done. This chapter highlights some of the key areas in need of immediate attention: ensuring the security of refugees, improving mechanisms to better identify those in need of international protection, and finding durable solutions—especially to resolve protracted situations. These and other challenges can only be met through adequate responsibility-sharing. The chapter also looks into various mechanisms for achieving it. A separate section is devoted to identifying the challenges facing UNHCR in providing protection and assistance for refugees and, increasingly, internally displaced people.

## Key concerns

Threats to the physical security of refugees are a growing problem.<sup>1</sup> They emanate from armed criminals, aberrant military and police forces, non-state armed actors, local populations and elements within the refugee community, and can lead to the killing of refugees and the abuse of women and children. A number of measures are being taken to address the problem. These include establishing refugee camps at a distance from volatile borders, separating combatants from civilian elements, providing safe access to food and water and training local police and refugee leaders on security issues. Some of these measures call for assistance from UN peacekeepers and collaboration with other agencies. For instance, UNHCR has teamed up with other UN organizations in a group called Coordinating Action on Small Arms to help reduce threats to the physical security of refugee populations.

As enshrined in international humanitarian law, the physical security of refugees remains primarily the responsibility of the host state, whereas the security of internally displaced people must be ensured by their own state. When the state fails to provide adequate protection, be it due to lack of capacity or unwillingness, the international community should intervene. But such intervention is often constrained by sensitivities over the sovereignty of the state concerned and the political agendas of other states. Consequently, interventions are usually too late, poorly funded and restricted by limited mandates. These problems have been illustrated during the Darfur crisis. More effective responses can only come about when there is the political will backed up by sufficient resources.

Another key on-going concern is the asylum-migration nexus. Asylum seekers and refugees have increasingly been resorting to illegal means of entry into states. In turning to smugglers to get them to their destinations, some of them fall victim to people traffickers. While illegal migration is a problem that no state can afford to ignore, policies to combat it should distinguish between illegal migrants seeking better economic conditions and individuals in need of international protection. Such a distinction exists in principle but in practice it is blurred. In many states asylum seekers and refugees endure the same treatment as illegal migrants, and in the process their right to international protection is often violated. This tendency has been fuelled by political agendas appealing to xenophobic sentiments.

Efforts to combat smuggling and trafficking in recent years include the adoption of treaties, notably the UN Convention against Transnational Organized Crime (2000), its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, as well as its Protocol against the Smuggling of Migrants by Land.<sup>2</sup> The two protocols call upon states to take a range of measures to combat the smuggling of migrants and trafficking in persons, in particular women and children. For example, the protocol against migrant-smuggling requires member states to make it a criminal offence under national laws, adopt special measures to crack down on migrant-smuggling by sea, and boost international cooperation to seek out and prosecute smugglers and traffickers.

In an attempt to protect asylum seekers and refugees, the protocols maintain that the rights, responsibilities and obligations of states and individuals contained in the 1951 UN Refugee Convention, and other instruments of international humanitarian law and international human rights law, must be upheld. In so doing, the protocols reinforce states' obligations to respect the principle of *non-refoulement* and refrain from imposing penalties on asylum seekers for illegal entry, as mentioned in Article 31 of the 1951 UN Refugee Convention. While this represents a step forward, more has to be done at the national level to identify those in need of international protection.

Recent years have witnessed renewed efforts to reach durable solutions. Still, the majority of today's refugees remain in situations of protracted displacement. The three classic durable solutions are voluntary repatriation, local integration in the country of first asylum and resettlement in a third country. But the history of durable solutions shows that a particular durable solution becomes the dominant solution in particular times.<sup>3</sup> Resettlement in third countries was the durable solution for much of the Cold War period; today it is voluntary repatriation.

While it is still recognized that resettlement is a vital instrument of international solidarity and responsibility-sharing, some states today are increasing the quotas of people they accept for resettlement, as a substitute for allowing spontaneous arrivals to apply for asylum.<sup>4</sup> The durable solution of resettlement needs to be strengthened. It is therefore encouraging to see the 'internationalization of resettlement', with new countries such as Argentina, Benin, Brazil, Burkina Faso, Chile, Iceland and Ireland agreeing to annual resettlement quotas, however small. In this respect, the adoption of the Multilateral Framework of Understandings on Resettlement by a range of resettlement and host states is helpful as it codifies standard principles and practices. The framework could be actively supported through the creation of a Refugee Resettlement Fund.<sup>5</sup>

Efforts to achieve the durable solution of return in security and dignity have underlined the importance of development assistance. Such assistance formed an element of Convention Plus in tandem with international support for the implementation of the 4Rs (Repatriation, Reintegration, Rehabilitation and Reconstruction) in the country of origin.<sup>6</sup> Another purpose of targeting development assistance is to promote local integration. While the idea is to encourage self-reliance among refugees, it can also become a means by which third states reduce the pressure for asylum and resettlement in their territories.

The targeting of development assistance for durable solutions is not a new concept. However, the success of initiatives launched over the past five years remains to be seen. The evaluations of the Uganda Self-Reliance Strategy and the Zambia Initiative for local integration will be important in assessing the potential of the continued targeting of development assistance for durable solutions. In the case of protracted refugee situations, the focus on development assistance for durable solutions should not overlook the importance of addressing and resolving political problems.

## Need for greater responsibility-sharing

### Institutionalizing dialogue

In the last few years, concrete policy initiatives to address the global refugee problem have come either from concerned states or UNHCR. The initiatives coming from states are essentially a response to the concerns of their citizens that they have become a soft touch for ‘bogus’ asylum seekers.<sup>7</sup> In tandem with growing xenophobia, restrictive administrative and legal measures have sharply reduced the number of asylum applications in many Western states. Such policies have led to the general erosion of the core principles of international refugee law, in particular the principle of *non-refoulement*. New initiatives proposed include ‘extraterritorial processing of refugees’ and ‘protection in the region of origin’. Broadly based on the Pacific Solution, they seek to limit the number of refugees entering industrialized states by establishing a deterrent asylum regime.

Indeed, developing countries often point to Western-country policies to justify their increasingly restrictive asylum practices. In recent years, these practices have included the more frequent detention of asylum seekers, while encampment and restrictions on freedom of movement have been stepped up. Furthermore, in many developing countries no distinction is made between asylum seekers and refugees on the one hand, and illegal migrants on the other. As a result, the rights of the former are often violated due to the indiscriminate implementation of measures aimed at combating illegal migration.

Concerned about these developments around the world, UNHCR has in recent years launched two important initiatives—the Global Consultations on International Protection and Convention Plus—to address global refugee problems. The Global Consultations represented UNHCR’s bid to rise to the new challenges confronting refugee protection and shore up support for the international framework of protection principles. It was also an effort by the organization to enhance protection through new approaches which address the concerns of states and other actors, as well as the inadequate asylum practices of states.<sup>8</sup>

Both the Global Consultations process and the Convention Plus initiative were based on the assumption that the policy responses of states and international organizations would be effective if they arose from dialogue between all the relevant actors.<sup>9</sup> These include developed and developing states, international agencies, the refugee community and NGOs, all of whom play a role in protecting and assisting refugees.

The Convention Plus initiative was informed by the understanding that developed states can take on greater responsibility for the protection of refugees within the ambit of international human rights law. The initiative highlighted the need for developed nations to respond to the concerns of the developing states that host most of the world’s refugees. In short, the two initiatives recognized that for a solution to the refugee problem to succeed it must be reached through dialogue between all the stakeholders, in particular developed and developing countries, on the basis of *shared interests*.<sup>10</sup>

Both the Global Consultations and Convention Plus moved the dialogue on the refugee problem forward. The former led to the reaffirmation of the 1951 UN Refugee Convention by states and also helped clarify core aspects of international refugee law. The process ‘encouraged a cooperative spirit in tackling refugee issues’ and ‘roused an interest in multilateral dialogue to find solutions to an increasingly internationalized set of problems’.<sup>11</sup> It led to the adoption of UNHCR’s Agenda for Protection, a comprehensive programme to tackle the various issues besetting refugee protection in today’s complex environment.<sup>12</sup>

Among the tangible achievements of the Convention Plus initiative was the adoption of a Multilateral Framework of Understandings on Resettlement in September 2004. It also led to dialogue on a number of elements including resettlement, targeting development assistance and irregular secondary movements to give concrete shape to the principle of international responsibility-sharing. These three elements were brought together in efforts to formulate comprehensive solutions for Afghanistan and Somalia.<sup>13</sup>

To the extent initiatives such as Convention Plus acknowledge growing North-South interconnectedness in areas such as migration, security and development, they take a step forward. But the substantive achievements of Convention Plus in terms of new commitments by states to responsibility-sharing and thus to refugee protection have been very few. This is largely due to the limited timeframe of the initiative and initial scepticism towards it because of its association with the concept of asylum transit processing and protection in regions of origin.<sup>14</sup>

## Regional solutions: exclusive or complementary?

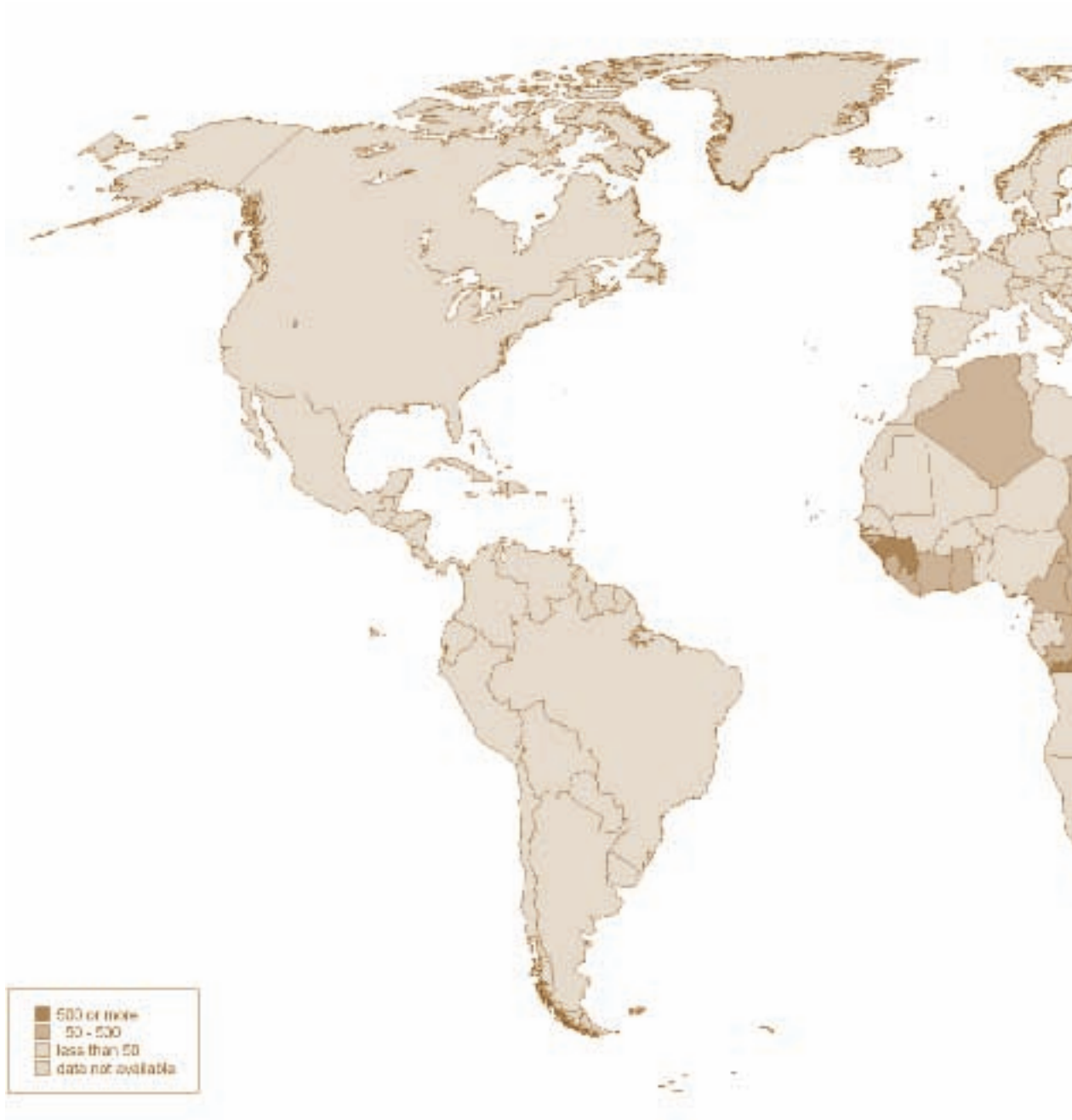
Any proposed mechanism for responsibility-sharing must, if it is to yield favourable results, be a dialogic and a global model. Both the dialogic and global dimensions are neglected when a regional solution to refugees is recommended as *the* model to respond to the global refugee problem. This is the approach of states that propose protection in the regions of origin. From a global perspective the regional solution can be adopted either as a complementary or an exclusive solution. The exclusive approach is often advocated to help reduce the burden of the refugee problem on affluent regions of the world.<sup>15</sup>

The efficiency and culture arguments used to justify an exclusively regional approach are being used without any serious attempt to conceptualize their meaning and implications.<sup>16</sup> Moreover, the idea of refugee-resources exchange (where rich states compensate poor states for hosting refugees) that informs cruder versions of the efficiency argument is ethically problematic; it treats refugees as commodities. It also ignores the possible social, security and environmental costs to developing host countries from such an exchange.

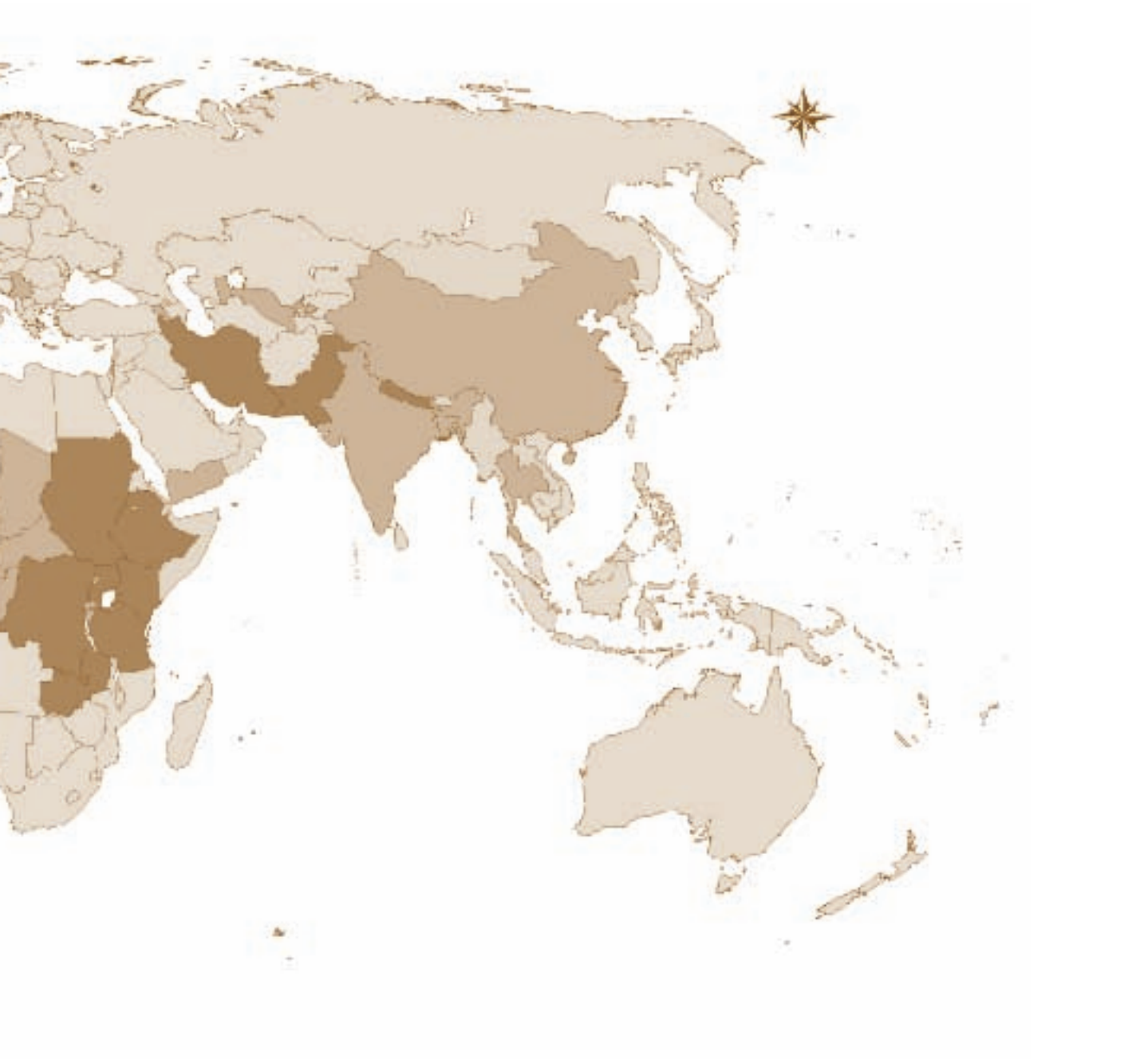
The other premise, that cultural similarities facilitate the hosting of refugees in regions of origin, is also debated. Quite often the assumption of cultural similarities is a myth. For instance, it is often presumed—erroneously—that all Africans share a

**Map 8.1**

**Average number of refugees per 1 USD GDP per capita, 2000-2004**



Statistical data sources: UNHCR (refugees)/World Bank (GDP)/United Nations Population Division (national populations). Compiled by: UNHCR. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations. Geographical data sources: UNHCR, Global Insight digital mapping - © 1998 Europa Technologies Ltd.



common culture, language and traditions.<sup>17</sup> Furthermore, geographical proximity cannot be the basis for advocating an exclusively regional approach.

A regional solution is therefore better used as a complement to a global approach. The regional approach can, however, put in place structures that facilitate preventive action, ensure a quick response to the need for humanitarian assistance and help parcel out responsibility for specific refugee groups.

## **Models for greater responsibility-sharing**

Both the Agenda for Protection and UNHCR's Executive Committee conclusion of 2004 on International Cooperation and Burden and Responsibility-Sharing in Mass Influx Situations recognize the need for global responsibility-sharing arrangements to take some of the load off first-asylum countries.<sup>18</sup> But how are these to be worked out in a concrete manner? An approach based on dialogue would require that responsibility-sharing be defined in accordance with criteria that are acceptable from the perspective of all parties involved.<sup>19</sup> A global approach would anticipate that responsibility is shared both in hosting the displaced and providing the funds required to offer them durable solutions. Keeping these views in mind, there are three possible ways to define global norms for responsibility-sharing.

First, agree on situation-specific comprehensive plans of action that respond to particular mass influx situations. This is the kind of agreement that was envisaged in the Convention Plus initiative. It will have a limited objective, and to yield positive results it must be based upon an acceptance of responsibility-sharing as a principle of customary international law.

Second, go beyond specific mass influx situations to adopt general rules of responsibility-sharing. Such a multilateral framework will take a more holistic approach and bring within its sights all practices that are not in line with the spirit of international responsibility-sharing, such as the restrictive asylum policies of some states. For this option to be effective, restrictive asylum practices have to be moderated so as to allow persons in need of international protection to have access to it.

Third, arrive at a multilateral framework that formulates rules that not only automatically come into play in situations of mass influx but also apply to protracted refugee situations. Such a framework will define the obligations of states more clearly and make the response of the international community more predictable by removing the element of discretion from the scheme of things. This can only be achieved by: the recognition of the need for effective and equitable responsibility-sharing in situations where developing countries are hosting large numbers of refugees; the provision of greater relief and reconstruction aid to post-conflict societies; and a common understanding based on shared interests.

All three models would define the criteria and modalities for burden-sharing and the role of states involved. They would focus on providing effective protection within the framework of international human rights and refugee law. They should not, however,



lay down any particular formula for sharing the burden of asylum; rather, states would be expected to respond appropriately in light of the global refugee situation and the specific refugee flow.

## Financial aspects

An important aspect of effective responsibility-sharing is financial burden-sharing, whereby the financial cost to countries hosting great numbers of the displaced is shared. Unfortunately, the provision of humanitarian assistance does not necessarily permit appropriate relief to be provided to states in need. In some cases, the political interests of states override humanitarian concerns based on needs. As a result, a number of critical refugee crises remain under-funded while other less urgent situations are allocated a surplus of funds.<sup>20</sup>

Furthermore, prompted by foreign policy and domestic political considerations, major donor states have increasingly channelled much of their humanitarian aid through large NGOs.<sup>21</sup> This has led to the 'bilateralization' of humanitarian assistance. Donors also have begun to earmark much funding so as to gain visibility and political influence.<sup>22</sup> In the process they have overlooked the comparative advantages and legitimacy of UN agencies.<sup>23</sup> These developments have led to a certain degree of incoherence contributing to the inability to get relief to those who need it.

Responding to criticism, in June 2003 concerned states launched the Good Humanitarian Donorship initiative to enhance the effectiveness and accountability of their actions.<sup>24</sup> Donor states agreed to certain principles and good practice, as well as to allocate funding in proportion to needs, to support development, UN leadership and coordination. They also agreed to explore ways to reduce the earmarking of humanitarian aid.

## UNHCR: challenges ahead

### The supervision challenge

In the course of UNHCR's Global Consultations on International Protection, the supervisory responsibility (under Article 35 of the 1951 UN Refugee Convention) of the organization was discussed by a gathering of distinguished experts. There was agreement that 'the identification of appropriate mechanisms should seek to preserve, even strengthen, the pre-eminence and authority of the voice of the High Commissioner. Anything that could undermine UNHCR's supervisory authority should be avoided'.<sup>25</sup>

On the other hand, some experts have been recommending that an independent committee be established with the task of ensuring the accountability of states under the 1951 UN Refugee Convention. These experts argue that UNHCR is unable to perform its supervisory role because of its financial dependence on donor countries

and the absence of a clear procedure in the Convention on how the supervisory task assigned to it is to be carried out.

The challenge can be met if UNHCR takes steps identified in the course of the Global Consultations to strengthen its supervisory role.<sup>26</sup> Its adoption of a dialogic model in recent initiatives is a move in the right direction as it allows all stakeholders, including the refugee community, to express their concerns.

## **The partnership challenge**

Within the UN system the primary responsibility for providing assistance and protection to refugees lies with UNHCR. In recognition of the expertise that other actors can bring in responding to and resolving refugee situations, in recent years UNHCR has worked to strengthen partnerships with governments, other UN agencies, NGOs, the private sector and the refugee community. It has continued to work with other UN agencies to assist refugees where their mandates meet. It has also invested particular efforts to strengthen collaboration with local and international NGOs, which are its main operational partners.

While much has been achieved, to identify and fill protection gaps the organization should go further in involving all relevant actors, including host governments, in assessing the needs of displaced people and in planning and implementing effective responses. By bringing in the expertise of others, UNHCR will complement its own work and capacity and therefore ensure that minimum standards of protection and assistance are met.

## **The accountability challenge**

Critics of the organization contend that its internal accountability mechanisms are inadequate for 'they neither offer adequate sanctions nor remedies when fundamental rights of refugees and stateless persons have been directly violated by an act or omission of the UNHCR'.<sup>27</sup> While the practicalities of such a proposal may be questioned, more can certainly be done to increase the transparency and accountability of the organization.

Considering the fact that UNHCR is constantly making decisions that affect the lives of hundreds of thousands of displaced people, there is a real and vital need for the organization to be more accountable to its beneficiaries. One concrete area that requires attention is refugee status determination (RSD) conducted by UNHCR. The number of applications received by UNHCR offices worldwide nearly doubled from 1997 (45,000 persons) to 2004 (86,000 persons). In 2004, UNHCR eligibility decisions affected 54,000 persons in over 80 countries, two-thirds of which are parties to the 1951 UN Refugee Convention. UNHCR conducts RSD mostly in developing countries. In some of these, it conducts RSD 'jointly' with the national authorities, in a gradual process of building national asylum systems. In states where national RSD procedures are in place without yet offering the necessary safeguards,

UNHCR closely monitors the processing of asylum claims by reviewing some claims in order to influence the decision of contracting states who may not otherwise grant refugee status to individuals deserving international protection. In other countries still, UNHCR carries out RSD as no national procedures yet exist.

RSD conducted by UNHCR may directly influence decisions regarding an asylum seeker's deportation, release from detention, resettlement to a third country or eligibility for humanitarian assistance. Researchers and refugee-rights advocates have noted several problems in the RSD process and detailed the standards that a fair, efficient and open RSD procedure should meet to comply with international human rights law.<sup>28</sup> UNHCR has responded positively to academic and NGO criticism and has drafted and started implementing in November 2003 its Procedural Standards for RSD under UNHCR's mandate, which were made public in September 2005.

### **The funding challenge**

UNHCR has lacked sufficient core funding in recent years because nearly 85 per cent of the contributions to it have been earmarked.<sup>29</sup> International agencies need the freedom to allocate about 25 per cent of their funds freely if they are to function effectively.<sup>30</sup> Tight earmarking has also reduced the organization's flexibility, weakening its ability to balance financing between regions, countries and emergencies. Consequently, some refugee crises, mainly in Africa, received far less funding than was available for the crises in Afghanistan, the Balkans and Iraq. The organization has found itself reacting to donor demand instead of assessed needs.<sup>31</sup>

In addition, at the end of the 1990s, UNHCR also started experiencing funding shortages as contributions fell well behind the budgeted needs approved by its Executive Committee.<sup>32</sup> The organization's funding situation had substantially improved by 2004. The agency raised sufficient funding for all its programmes as donors responded positively in 2004 to appeals for flexible, early and prompt funding. In addition, several donors have increased their unrestricted contributions.<sup>33</sup> However, by the end of 2005, UNHCR's financial situation had deteriorated once again.

### **The IDP challenge**

The need for clarity and consistency in UNHCR's response to internally displaced persons has been recognized.<sup>34</sup> On 12 September 2005, the Inter-Agency Standing Committee decided that when responding to situations of internal displacement certain agencies will lead preparedness and response on a global basis in nine sectors. Known as the Collaborative Approach, this is an important marker in a process to improve the overall humanitarian response to internal displacement, by reaching more systematic, predictable and less ad hoc responses.

UNHCR will be the leading agency for protection, camp coordination and management, and emergency shelter. Its role is pivotal because it addresses protection, an important gap in the system. There are, however, limitations on UNHCR's involvement. Its lead role in the three sectors would not apply where internal

displacement is caused solely or very substantially by natural disasters or human-made calamities (such as a nuclear accident or any major ecological disaster). In addition, its involvement with internally displaced persons and affected populations will be limited or cease when such involvement poses a serious threat to the safety and security of refugees, its staff and operations.

Having agreed to expand its role to encompass the internally displaced, the organization is at a critical juncture after more than 50 years of existence. The effectiveness of the Collaborative Approach and the role of UNHCR remain to be seen. While UNHCR has extensive experience in dealing with refugee emergencies and providing refugee protection, it has limited experience with crises of internal displacement. In the context of UNHCR's new role within the Collaborative Approach, the organization will have to formulate guidelines on how to operationalize 'protection' in situations of internal displacement and train its staff accordingly. Additionally, the organization needs to develop its camp coordination function and devise operating standards. Furthermore, given that the number of internally displaced persons is substantially higher than that of refugees, UNHCR needs to strengthen and extend its emergency response capacity to meet the additional caseload. The fulfilment of these requirements depends on the availability of substantial funding.

### **The staff security challenge**

Over the past few years the 'humanitarian space' for aid workers has been shrinking. Personnel of humanitarian agencies have increasingly become the target of violent attack. In September 2000, three UNHCR field workers were killed in Atambua, West Timor by rampaging militiamen.<sup>35</sup> To address this issue UNHCR has undertaken a review of its own security policies, and sought to implement measures to enhance staff security. These include security training and the deployment of more security advisors. In 2005, the UN General Assembly established a new Department of Safety and Security for all 400,000 UN staff and dependants.<sup>36</sup> These developments will go some way to safeguard those on whom the effective protection of displaced people depends.

### **An overriding consideration**

Refugees and internally displaced people reflect the shortcomings of political systems. A primary objective of states and their governments is to protect their citizens against violence and persecution. Governments are obliged to ensure respect for human rights. When a government fails to fulfill this duty, the result is often forced displacement. In situations where such displacement involves crossing international borders, the provision of protection is the responsibility of the international community. This is also the case in situations of displacement within national borders when the government concerned fails to provide protection and assistance. Through

various forms of intervention, the international community should then provide appropriate responses.

Governments remain the primary protectors, but also violators, of human rights as enshrined in international law. Consequently, attempts to fortify the international protection regime are contingent upon the respect and implementation of states' obligations under international humanitarian law as well as human rights and refugee law.

In recent years, the elevated security concerns of states have increasingly led to practices that ignore international human rights standards. In the process, the international protection regime has been undermined. Therefore, future efforts to meet the on-going challenges in the provision of adequate protection and assistance to those in need, would yield limited results in a world where international law is increasingly under threat.

## Chapter 8

- 1 See the special issue of *Refugees* on 'How Secure Do You Feel?' 2005, vol. 2, no. 139.
- 2 The first two agreements entered into force in 2003 and the last in 2004. For the list of signatories and precise dates of entry into force see [http://www.unodc.org/unodc/en/crime\\_cicp\\_signatures.html](http://www.unodc.org/unodc/en/crime_cicp_signatures.html).
- 3 B.S. Chimni, 'From Resettlement to Repatriation: Towards a Critical History of Durable Solutions', UNHCR Research Papers No. 2, 1999.
- 4 UNHCR, 'Multilateral Framework of Understandings on Resettlement', High Commissioner's Forum Forum/2004/6, 16 September 2004.
- 5 *Ibid.*, p. 4.
- 6 UNHCR, 'Progress Report: Convention Plus', 16 September 2004, pp. 4-5.
- 7 For a discussion of the response of Western states see M. Gibney, *The Ethics and Politics of Asylum: Liberal Democracy and the Response to Refugees*, Cambridge University Press, Cambridge, 2004.
- 8 E. Feller, 'Preface' in E. Feller, V. Turk and F. Nicholson (eds), *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection*, Cambridge University Press, Cambridge, 2003, p. xvii.
- 9 B.S. Chimni, 'Reforming the International Refugee Regime: A Dialogic Model', *Journal of Refugee Studies* vol. 14, no. 2, 2001, pp. 151-68.

- 10 UNHCR, 'Progress Report: Convention Plus', High Commissioner's Forum /2004/5, 16 September 2004, footnote 5.
- 11 E. Feller, 'Preface' in E. Feller et al. (eds), *Refugee Protection in International Law*, p. xviii.
- 12 Ibid.
- 13 A. Betts, 'Convention Plus: Continuity or Change in North-South Responsibility Sharing', paper prepared for 'New Asylum Paradigm?' workshop, COMPAS, 14 June 2005, p. 7.
- 14 Ibid., pp. 1, 5, 12.
- 15 G. Noll, 'Securitizing Sovereignty? States, Refugees and the Regionalization of International Law', in E. Newman and J. van Selm (eds), *Refugees and Forced Displacement: International Security, Human Vulnerability, and the State*, UN University Press, Tokyo, 2003, p. 292.
- 16 A. Betts, 'What Does "Efficiency" Mean in the Context of the Global Refugee Regime?', Working Paper No.9 (2005), Centre on Migration, Policy and Society, University of Oxford, Oxford.
- 17 A. Appiah, *In My Father's House*, Harvard University Press, Harvard, 1992, p. 26.
- 18 UNHCR, Executive Committee Conclusion on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations, No. 100 (LV) - 2004, 8 October 2004; UNHCR, Standing Committee, 33<sup>rd</sup> Meeting, International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations, EC/55/SC/CRP.14, 7 June 2005, para. 1.
- 19 J. Habermas, 'Struggles for Recognition in the Democratic Constitutional State' in A. Gutman (ed), *Multiculturalism*, Princeton University Press, New Jersey, 1994, p. 142.
- 20 For example, in 1999 European Community Humanitarian Office (ECHO) funding for former Yugoslavia and Kosovo 'was four times the funding for all 70 African, Caribbean and Pacific countries'. Inter-Agency Standing Committee, *Global Humanitarian Assistance 2000*, United Nations, pp. 64-5.
- 21 The largest bilateral donors work together through the OECD's official Development Assistance Committee (DAC): they include the United States, the United Kingdom, Germany, Sweden, the Netherlands, Japan, Norway, Italy, France and Switzerland.
- 22 G. Everts, *Guide for UNHCR Field Offices on Donor Relations and Resource Mobilisation*, UNHCR, 2003, p. 28; I. Smillie and L. Minear, *The Quality of Money: Donor Behavior in Humanitarian Financing; An Independent Study*, Feinstein International Famine Center, Tufts University, Boston, 2003.
- 23 R. Kent et al., *Changes in Humanitarian Financing: Implications for the United Nations*, Inter-Agency Standing Committee, United Nations, 2003.
- 24 The International Meeting on Good Humanitarian Donorship was held in Stockholm, 16-17 June 2003; conclusions are available at <http://www.reliefweb.int>.
- 25 E. Feller et al. (eds), *Refugee Protection in International Law*, p. 668.
- 26 See 'Summary Conclusions: Supervisory Responsibility', *ibid.*, pp. 670-1.
- 27 Hoi Trinh, 'UNHCR and Accountability: the Non-reviewability of UNHCR Decisions' in A. Bolesta (ed.), *Forced Migration and the Contemporary World: Challenges to the International System*, Libra, Bialystok, 2003, p. 51.
- 28 For detailed recommendations see M. Alexander, 'Refugee Status Determination Conducted by UNHCR', *International Journal of Refugee Law*, vol. 11, no. 2, 1999, pp. 286-7.
- 29 I. Smillie and L. Minear, *The Quality of Money*, p. 21.
- 30 G. Everts, *Guide for UNHCR Field Offices*, p. 32.
- 31 Ibid.
- 32 See UNHCR, *Global Report 2003 and Everts, Guide for UNHCR Field Offices*, p. 7.
- 33 UNHCR, *Global Report 2004*, p. 25.
- 34 V. Mattar and P. White, *Consistent and Predictable Responses to IDPs: A review of UNHCR's Decision Making Processes*, UNHCR, Evaluation and Policy Analysis Unit, EPAU/2005/2, March 2005, p. 1.
- 35 UNHCR, *Refugees*, vol. 2, no. 139, p. 8.
- 36 Ibid., p. 9.