

The State of the World's Refugees 1993

Chapter Four Protection in Times of Armed Conflict

The majority of today's refugees and displaced people are being uprooted by armed conflict. Some have fled from the fighting itself – which usually causes more civilian than military casualties – and others from the complete disruption of their livelihoods. Disturbance of food production and the confiscation of food supplies by armed forces are often instrumental in forcing people to move. The upheaval and dislocation frequently kill more people than the bombs and bullets.

Forced displacement is commonly used as a military strategy. By depopulating a rural area, one party to a conflict may hope to deny its opponents a major source of support and recruitment. Although expressly forbidden by the Geneva Conventions, uprooting all or part of a population in some cases is a goal in itself.

Insurgent groups usually aim to disrupt lines of communication and other infrastructure, both to demonstrate their own power and to undermine the government's control. Social institutions such as schools and clinics are also seen by some groups as symbols of central authority, and therefore as targets. Such attacks on the fabric of civil society contribute heavily to the impulse to flee.

People who have fled from the effects of war are not necessarily seen as conforming to the refugee definition of the 1951 Convention. Yet they are recognized in regional instruments, in national practices and in popular perception as people in need of international protection until circumstances permit them to return safely to their home countries. Most modern refugees fall into this somewhat ambiguous category. Some of the new thinking about refugee issues discussed elsewhere in this report – such as protective prevention, in-country assistance, country-of-origin responsibility, monitoring, early warning and comprehensive approaches – is drawing humanitarian institutions more and more deeply into situations of armed conflict.

The victims of conflict include refugees, internally displaced people and people trapped behind siege lines or geographical barriers. Those who manage to escape across an international border have a good chance of gaining at least temporary refuge and international assistance. Whether or not the internally displaced gain access to protection or assistance depends on the vagaries of national and international politics – even though distinguishing between refugees and internally displaced people with identical protection and assistance needs is illogical and counter-productive, to say nothing of inhumane. The plight of those who are prevented from becoming refugees is often the most tragic. The same forces that impede their movement may cut them off from external aid or even the observation of the outside world. International agencies that normally work with displaced people, including UNHCR, try to assist and protect these would-be refugees in a number of settings. However, because of the inadequacy of international mechanisms specifically geared to the internally displaced, the response to their plight remains uneven, to say the least.

“Assistance for victims of war must be neutral, impartial and humanitarian”

Those uprooted by armed conflict in one country are increasingly likely to include people who are already refugees from another. For example, after the Mengistu regime in Ethiopia collapsed in 1991, Sudanese refugees living in camps in western Ethiopia were attacked. Up to 380,000 people spilled back across the border straight into a combat zone within Sudan, where they were attacked by Sudanese government troops, or got caught in the cross-fire between government and rebel forces. Other refugee groups have similarly been compelled to return to unsafe areas. Some 500,000 Ethiopian refugees streamed back into drought-

devastated eastern Ethiopia, along with fleeing Somalis, because of fighting and the collapse of public order in Somalia during 1991-1992.

Armed conflict imposes political and logistical constraints on the provision of assistance and protection to the displaced. During civil wars or armed uprisings, recognized governments may object to assistance being given to civilians in territory controlled by opposition forces. Under these conditions, protection and assistance are inextricably linked – in particular over the question of access to those in need of assistance, and over the location and conditions governing the provision of relief. The presence and actions of international humanitarian workers in the field may provide a certain degree of indirect protection. Aid workers are also in a position to take more active protective measures by drawing attention to abuse or discrimination affecting displaced people. As a result they are frequently obstructed and harassed, and are sometimes physically attacked, taken hostage or killed.

The protection of civilians in armed conflicts is amply provided for in international law (see Box 4.1). The 1949 Geneva Convention Relating to the Protection of Civilian Persons in Time of War, which has been ratified by 181 states, provided the foundation, which was built upon by the two Additional Protocols of 1977. Protocol II, with 116 ratifications, deals with the protection of civilians in internal armed conflicts. Among other things, it prohibits the use of starvation and forcible population transfers as weapons of war. The mandate of the International Committee of the Red Cross (ICRC) extends beyond the treaties and provides a mechanism for putting them into operation. ICRC and UNHCR frequently work alongside each other in conflict situations.

International guidelines for the provision of assistance to victims of armed conflict emphasize that help must be neutral, impartial and humanitarian. Neutrality implies a refusal to take sides. Impartiality implies that aid is given solely on the basis of need. The humanitarian principle upholds the protection of life and the relief of human suffering as the sole purpose of outside interference.

Assistance and protection are more and more frequently being provided to displaced people in the midst of active hostilities. Armed conflict not only creates refugees but also erects sometimes insurmountable obstacles to assistance efforts. It is almost inevitable that one or all parties to a conflict will politicize humanitarian aid, viewing it as a factor that could affect the outcome of the dispute. When warring parties believe their objectives or military tactics will be advanced by harming the civilian population, they nearly always see humanitarian relief efforts as a form of external interference obstructing the successful realization of their plans. Humanitarian assistance becomes a means of protection in precisely this way: its purpose is to remove the misery of non-combatants from the tactical calculus of war, and to confine the conflict solely to the opposing military forces.

The difficulties of providing protection and assistance in armed conflict are multiplied in situations of armed anarchy, when a government has collapsed and there is no central authority. It becomes virtually impossible to negotiate terms for the provision of relief that have meaning beyond the immediate time and place – and sometimes not even that. Under such circumstances relief operations proceed, if at all, in conditions of extreme uncertainty and insecurity. In the extreme case of Somalia, humanitarian relief operations were virtually paralyzed for many months until the UN-sanctioned military intervention in November 1992.

Refugees and international security

Refugee groups are not necessarily passive victims of armed conflicts. Often they support or even participate in the fighting. Refugee camps are supposed to be respected as neutral, humanitarian zones and UNHCR refuses, as a matter of principle, to provide its protection to people actively engaged in armed hostilities. Nonetheless, in reality combatants often mingle with civilian populations, greatly complicating the task of protecting those not involved in the fighting. It is well known that Cambodian guerrillas operated from refugee camps not under UN control in Thailand, and that the Afghan mujaheddin based themselves among refugees in Pakistan, as did the Nicaraguan contras in Honduras.

The presence of “refugee warriors” sometimes provokes military retaliation. Fighting between

different opposition factions may subsequently be repeated on a smaller scale within refugee camps. Even if the camps are not actively used as bases, they may still offer valuable support in the form of food supplies, medical care and rest for wounded or exhausted fighters. The host country is on occasion a willing accessory to this pattern, using refugee communities to forward its own foreign policy or security agenda.

Refugees' freedom of movement is sometimes constrained by their own military or political leaders, who for strategic reasons either prevent them from returning home or urge them to do so before conditions are safe. External forces also attempt to manipulate displaced people for political purposes.

It is vital that planners and field workers understand the military strategies, tactics and weapons employed in the fighting, as well as the politics of the underlying disputes. They need to know who controls which areas of the country of origin, and the relationships that exist between various factions and different refugee groups. A grasp of the local and international security dimensions of a conflict will allow the current and future protection needs of the displaced to be more effectively addressed. It is also essential if sound judgements are to be made concerning the risks and dynamics of assisted or spontaneous repatriation.

“Humanitarian assistance is sometimes drawn into the centre of disputes”

In almost all cases of displacement due to armed conflict, the first step towards a solution to the refugee problem is negotiation to end the fighting. Even this truism raises a dilemma for organizations that assist and protect the displaced. To what extent should they become engaged in efforts to bring about peace? Some see their work as creating a “humanitarian space” enabling adversaries to identify fundamental shared needs before moving on to more difficult political issues. Others see involvement in peace efforts as a dangerously political act which may compromise the neutral character of relief efforts.

Given all this, it is scarcely surprising that humanitarian assistance is sometimes drawn into the centre of disputes. Siege and starvation are two of the oldest weapons. Humanitarian assistance can also be a weapon, whether those providing it like it or not. Relief supplies reinforce the credibility and authority of the people in charge of civilian populations. Humanitarian aid can even fuel hostilities: passively, if it permits a military force to continue fighting while the civilians are cared for by international relief; actively, if relief supplies are diverted to military forces. Humanitarian assistance is sometimes accused of providing short-term help that may in the long term do more harm than good – by prolonging conflict, stimulating further displacement or diverting attention from a crying need for concerted political action to achieve peace.

Negotiating access

The provision of relief and the monitoring of the safety and welfare of displaced people depends on access: both the access of humanitarian agencies to people in need and vice versa. Access tends to be the subject of the most difficult and protracted negotiations between humanitarian agencies and warring parties in virtually all conflicts, both great and small.

The obligations of states to permit humanitarian access are well established in international law. Article 59 of the Geneva Convention Relating to the Protection of Civilian Persons in Time of War obliges all parties to an international conflict to allow free passage for humanitarian assistance such as food. Protocol II requires that medical personnel and transport be protected. Although these provisions apply only to states that have ratified the instruments, they are widely acknowledged – though not necessarily implemented – by governments and insurgent groups that wish to be accepted as members of the international community.

“The international community is becoming more insistent that warring parties permit access”

While the law on humanitarian access is clear, the record of implementation, particularly in internal conflicts, is very poor, and methods of enforcement are far from straightforward. States accept obligations such as those set out in the Geneva Conventions as necessary proof of their legitimacy and sovereign authority, and yet frequently invoke sovereignty as a means of preventing actions intended to hold them to their obligations. Barring humanitarian agencies from war zones has a twin effect. It stops presumed supporters of opposition groups from receiving relief and assistance, and it excludes independent observers who might witness and report mistreatment of civilians at the hands of government forces. Rebel movements in control of territory often react in an identical fashion.

Nonetheless, even in the midst of brutal fighting, most states continue to acknowledge their humanitarian obligations. For example, in April 1992, a summit meeting of heads of state and governments in the Horn of Africa produced a Declaration of Commitment to the Observance and Promotion of Humanitarian Principles and Norms. The participants pledged to ensure access to people in need of assistance and protection. On the understanding that assistance would be provided with impartiality, and with respect for national sovereignty and the traditional cultural values of the people, they committed themselves to establishing “corridors of tranquillity” in conflict zones to enable relief supplies to reach civilians. They also gave assurances about honouring the integrity of relief distribution resulting from negotiations and agreements with the parties involved.

The international community is becoming more insistent that states and other warring parties actually carry out their commitments to permit access. Although successes have to date been limited, tough negotiations have succeeded in opening up entry for relief supplies. With drought and famine threatening millions of people throughout Ethiopia and southern Sudan, relief supplies blocked and further massive population movements looming, sustained international pressure led to the opening of the Eritrean port of Massawa in late 1990. In other instances – in Sudan, Iraq and, more recently, Bosnia and Herzegovina – airlifts or land corridors have been used to gain access to isolated areas where displaced people have congregated or where civilian populations have been cut off from the outside world. Humanitarian cease-fires have also been negotiated to permit campaigns to immunize children, such as those undertaken by UNICEF in southern Sudan, or evacuations of the sick and wounded (see Box 4.3). The fragility of such arrangements, however, has continued to demonstrate the difficulty, despite repeated negotiations, in sustaining humanitarian agreements without the political will of the warring parties concerned. In Sudan, former Yugoslavia and elsewhere, relief flights and land routes have been subject to continual disruption.

“Protection and assistance efforts are more likely to succeed with the co-operation, or at least the consent, of affected governments”

Numerous declarations and resolutions from multilateral bodies call on states to facilitate the work of humanitarian agencies and ensure safe passage for humanitarian aid. However, the UN Security Council created an unusually clear precedent in resolution 688 of 5 April 1991 when it insisted that Iraq allow international humanitarian organizations immediate access to all those in need of assistance in all parts of Iraq. Focus on the issue of humanitarian access was somewhat blurred – though the impact may have been increased – by the association of the resolution with the creation of a safety zone in northern Iraq by means of military intervention, and the subsequent decision to establish and patrol a “no-fly zone”. In a further step in December 1991, the General Assembly after protracted debate passed resolution 46/182, in which it asserted that humanitarian assistance could be provided with the consent of the affected country, rather than at its request as had been the case in the past. It is more

difficult for states actively to refuse humanitarian assistance for their people than to neglect, passively, to request it. However, it remains to be seen how far the international community is prepared to go to gain access, particularly in situations which are marginal to the interests of powerful states.

Sovereignty and intervention: new approaches

The international community is divided and ambivalent in its stance on the limitations imposed by national sovereignty on humanitarian assistance to displaced people in times of war. Representatives of some states continue to insist that sovereignty overrides all other principles of international interaction, while others speak not only of a right but even a duty to intervene on humanitarian grounds. Whatever the eventual outcome of this debate, recurring humanitarian emergencies have undoubtedly focused attention on the question of how far the relief of human suffering can and should be subject to national boundaries and the consent of governments.

The United Nations Secretary-General, Boutros Boutros-Ghali, raised this question in a more general context in his *Agenda for Peace*. He wrote: "Respect for [the state's] fundamental sovereignty and integrity are crucial to any common international progress. The time of absolute and exclusive sovereignty, however, has passed; its theory was never matched by reality. It is the task of leaders of states today to understand this and to find a balance between the needs of good internal governance and the requirements of an ever more interdependent world."¹

Protecting the victims of armed conflict increasingly means finding ways of protecting people inside their own countries, in spite of the constraints of sovereignty. Some of the recently-introduced practices designed to make humanitarian action more flexible – such as humanitarian cease-fires, corridors of tranquillity and open relief centres – remain within the bounds of sovereignty. And there are practical as well as legal reasons for continuing, when possible, to honour sovereignty. Protection and assistance efforts to the displaced are more likely to succeed if they have the co-operation, or at least the consent, of affected governments. "Humanitarian intervention", on the other hand, involves states acting unilaterally or collectively to assist people in another state without the consent of their government. It is likely to be less contentious – if not necessarily easier to enact – in situations, such as that in Somalia, where there is no functioning government. In the general situation of lawlessness that prevails there, assistance cannot be delivered effectively without substantial military protection.

One of the problems raised by the ambiguous status of sovereignty is whether, and under what circumstances, inter-governmental and bilateral institutions should deal with unrecognized political entities in the management of refugee problems. In situations of civil war or anarchy, humanitarian agencies are faced with a plethora of official or quasi-official authorities at national and local levels, as well as with liberation movements, self-proclaimed governments, tribal or clan leaders, war lords, bandits or irregular militias. Practical necessity dictates talking to whoever controls access to people in need, but such contacts may be interpreted (incorrectly) as implying recognition of these entities. It should be clearly understood that humanitarian assistance does not condone or give official status to a co-operating party.

States that have joined the United Nations, subscribed to the Universal Declaration of Human Rights, ratified the Geneva Conventions and their Protocols, and acceded to other international agreements, have in the process accepted certain legal obligations to permit and facilitate humanitarian aid. This is not an infringement of their sovereignty but an exercise of the responsibilities that go with it. Even in the case of northern Iraq, where access was initially established by force, subsequent humanitarian activities by UN agencies have been based on a memorandum of understanding with the Iraqi government, which enabled the UN to establish a massive presence in the north to provide assistance, monitor human rights and offer protection.

Recent, less restrictive, interpretations of sovereignty emphasize not only its form but also its content. The content includes a state's humanitarian obligations to its own citizens.

Sovereignty involves a responsibility to meet the needs of the population or to allow the international community to assist. From this perspective, sovereignty and international humanitarian assistance are not mutually exclusive but complementary. But any government that systematically flouts its humanitarian obligations to its people, and refuses access to those in need, calls into question its own sovereign rights. In other words, the rights and responsibilities of sovereign states are inseparable.

“Sovereignty involves a responsibility to meet the population’s needs or else allow the international community to assist”

For this reason, some observers argue that “humanitarian intervention” is a contradiction in terms. If states have given implicit prior consent, action without their consent cannot occur. As former UN Secretary-General Pérez de Cuéllar said, “What is involved is not the right of intervention but the collective obligation of states to bring relief and redress in human rights emergencies.”² An international consensus on humanitarian intervention is unlikely to emerge soon. Occasions when international assistance appears indispensable, in spite of the absence of a conventional appeal for help from the sovereign government, are always unique and must be judged in context. What is clear from recent experience is that some governments are taking a much more activist role in international institutions, with the aim of reaching those in need of international protection and assistance. This is less a matter of intervention than of a refusal to take “no” for an answer.

Protecting assistance

Lack of security is one of the major obstacles to protection and humanitarian assistance in conflict zones. Delivery of humanitarian assistance is frequently disrupted or halted because of threats to or actual attacks on the staff of relief organizations and their facilities and vehicles, not to mention on refugees themselves. The airlift that supplies the besieged city of Sarajevo, for example, had to be suspended three times in 1992 for a total of eight weeks and seven times in the first six months of 1993 for a total of five weeks. Blockades of relief convoys and looting of relief supplies are, in some settings, more the rule than the exception.

The Secretary-General of the United Nations, in his 1992 Report on the Work of the Organization, observed that:

“The security and protection of staff and safe and effective delivery of relief materials are major concerns with regard to humanitarian efforts in conflict situations. Indeed, the situations in Somalia and the former Yugoslavia have demonstrated that it may not be a question of the capacity to deliver, but rather of the security conditions pertaining to distribution of relief supplies, which determine whether humanitarian assistance can be provided. Volatile security situations have led to the suspensions of operations. In other cases, relief operations have continued, but at a considerable hazard for those involved. United Nations and other humanitarian relief workers are often exposed to great dangers and many are risking their lives on a daily basis”³ (see Box 4.4).

Methods of protecting humanitarian workers include the use of protective emblems such as the Red Cross and Red Crescent, the UN emblem and so forth. A more universal symbol, which could be used by NGOs working according to an agreed international code of conduct and with the agreement of parties to the conflict, might be useful.

Negotiations with the warring parties can result in guarantees of safe conduct, without which relief work might carry too great a risk. Almost all organizations that operate in war zones must use passive means of protection, such as stockades and shelters. In some settings, they may be forced to resort to locally hired, armed security guards. In others, the international community has decided to provide military escorts like those that accompany UNHCR convoys in the former Yugoslavia.

The use of armed forces to protect relief supplies and personnel is controversial. Some humanitarian organizations, including most prominently the ICRC, refuse military escort except in extreme circumstances such as those found in Lebanon during the 1980s and more recently in Somalia. They reason that military involvement in humanitarian work compromises its non-political nature, raises the temperature in a crisis and may turn humanitarian facilities and staff into targets. Other organizations conclude that the urgent need for relief and the intractability of some of the antagonists leave no choice but to proceed into conflict areas by any means possible.

“There has been growing acceptance of military involvement in emergency relief”

The military, in its turn, may have many reservations about working with relief agencies. Both military and civilian providers of assistance would agree that differences in professional ethos and management style make co-ordination between the two difficult. Nonetheless, productive relationships have been forged.

Acceptance of military involvement in emergency relief has grown with experience. A massive relief operation was undertaken by coalition forces on the Turkish border with Iraq in 1990, and undoubtedly saved many lives. In the former Yugoslavia, military forces have been involved directly in the provision of humanitarian assistance, through airdrops over eastern Bosnia and in the operation of the Sarajevo airlift. In addition, they have played a role in protecting the relief supplies and personnel of humanitarian agencies, notably by escorting land convoys (see Box 4.5). In a number of other operations, humanitarian agencies have come to rely on the military for the protection of convoys, for security at ports and airfields, and for their capacity to operate major airlifts. The difficulties of supplying an army in the field have much in common with the problems of assisting large numbers of displaced people affected by war. The logistical capabilities of military organizations and their ability to deploy rapidly, mobilizing transport and communications as well as supplies for immediate survival, can provide an indispensable lifeline in refugee emergencies taking place in the midst of armed conflict.⁴

“Humanitarian agencies have come to rely on the military for protection in a number of operations”

Of course, the traditional role of multilateral military forces is not to supply humanitarian relief. Peace-keeping or peace-making efforts are often the central elements of international political initiatives to contain and resolve conflicts. Where civil authority has broken down altogether, multi-national forces may also take part in the maintenance of law and order. In Cambodia, they were closely involved in preparing for the elections in May 1993.

The humanitarian role, which has recently gained more prominence, is not always clearly differentiated from these other tasks, at least in the eyes of intended beneficiaries. This sometimes causes confusion and resentment. Bosnian Muslims, for example, ask bitterly why the same soldiers who guard the convoys bringing food to keep them alive stand aloof from the battles that kill them. The restrictions on UNPROFOR's rules of engagement, mandated by the Security Council, are intended to keep it from becoming involved in the fighting on a partisan basis. But they are not always understood or welcomed by the people on the ground.

The co-ordination of humanitarian efforts with political and military actions in refugee-producing conflicts is not without its difficulties. It blurs traditionally distinct roles and, if mismanaged, could compromise the strictly neutral character of humanitarian aid, which is the best guarantee of access to people in need. Nevertheless such co-ordination often provides an opportunity to advance the peace process, as relief efforts give rise to negotiations that can subsequently develop beyond humanitarian issues to conflict resolution. There is room for a variety of patterns and practices, as long as basic humanitarian principles are not compromised.

Part of protection is knowing how to recognize the limits of humanitarian action. Relief assistance can work at cross purposes with protection if it becomes an alibi for inaction in the political sphere. There may be circumstances in which it is proper to withhold humanitarian assistance, such as when warring parties are manipulating it to their own advantage in ways that promise to prolong a conflict, and are routinely violating international law in the process. The most difficult and controversial decisions that humanitarian organizations are called upon to make involve weighing the need for short-term help against the dangers of doing long-term harm. It would be naive to think, or to insist, that humanitarian assistance – alone of all the elements involved in a conflict – can be entirely free from calculations concerning ends and means.

Protection in armed conflict demands different techniques depending on the character of the conflict and the antagonists. If the refugees are a by-product of conventional war, forced to move in order to get out of the cross-fire or to find food, negotiations to arrange relief and protection for them have a good chance of success. Internal conflicts often pose much more complex problems. If the parties involved are motivated by a desire for international recognition and acceptance, however, they can often be persuaded to accede to humanitarian principles. The international community must insist, forcefully, that they do so.

Box 4.1 International Humanitarian Law

Since the middle of the last century, international law has progressively acquired more humane and compassionate dimensions in an effort to ensure the fundamental protection of human beings both in times of peace and of war. This development is reflected in three distinct but interrelated branches of international law – human rights law, refugee law and humanitarian law – all of which are important means of preventing potential refugees flows.

International human rights law provides a set of universal standards which states must observe in their treatment of people under their jurisdiction.⁵ Human rights conventions do not grant rights directly to individuals. Instead, they impose obligations on signatory states to grant such rights.

International refugee law seeks to protect people who have been forced to flee their home country because of persecution or violence, and whose own governments are unwilling or unable to protect them or to safeguard their basic human rights.

In its specialized sense, international humanitarian law provides aid and protection for victims of war. Its origins go back to 1864, when the first Geneva Convention was adopted at the instigation of the International Committee of the Red Cross (ICRC).⁶ It is now codified in the four 1949 Geneva Conventions and in two Additional Protocols adopted in 1977. By June 1993, 181 states had signed the Geneva Conventions, thereby giving them almost universal validity, while Additional Protocols I and II had been adopted by 125 and 116 states respectively.

At the heart of international humanitarian law lies the principle of respect for human life and dignity. The Geneva Conventions stipulate that all those who are not taking an active part in hostilities – be they civilians or former combatants – must be respected, protected against the effects of war and provided with impartial assistance.

Most contemporary refugee flows result from armed conflict. International humanitarian law should, therefore, be of increasing relevance both for the protection of refugees caught up in fighting and for preventing refugee outflows by safeguarding the rights of civilian populations, including internally displaced people.

An important limitation of international humanitarian law, however, lies in the fact that it does not cover all armed conflict situations and that its application is more likely to be disputed in situations of civil war. Protocol II, which deals with internal conflicts, specifically excludes internal disturbances and tensions, such as riots, or isolated and sporadic acts of violence. Consequently, a number of situations in which the safety and well-being of civilians are

seriously at risk fall outside the scope of humanitarian law or are unilaterally declared to do so by the governments concerned.

As internal conflicts proliferate, humanitarian law is violated with increasing frequency. Torture, rape, hostage-taking and “ethnic cleansing” are daily occurrences in war-torn areas throughout the world, and the impartial humanitarian assistance which victims have the right to receive is often obstructed. An urgent question facing the international community today is how to halt such violations and to ensure that those responsible for war crimes are brought to justice. Unless ways are found to ensure that the principles and rules of humanitarian law are respected and properly implemented, the world is likely to continue to see refugees spilling across national boundaries in flight from the ravages of war.

Box 4.2 Rape as a Form of Persecution

“While there has been steady progress in women’s rights in many countries, a reversion to barbarism has occurred in others. Some countries have seen the use of systematic sexual violence against women as a weapon of war to degrade and humiliate entire populations. Rape is the most despicable crime against women; mass rape is an abomination.” (Boutros Boutros-Ghali, International Women’s Day, 1993).

Refugee women are vulnerable to rape before, during and after flight. During the 1980s, the most widely publicized example of sexual violence against refugees was the brutal rape and, in many cases, subsequent murder of Vietnamese women by pirates preying on boat people in the Gulf of Thailand. In many other parts of the world, however, women have been and continue to be victims either of random acts of sexual violence or of politically motivated rape.

Sexual attacks on women are commonplace in times of conflict or of heightened political or inter-communal tension. A review of European asylum case law indicates that a deplorably high number of Tamil refugee women had been raped in Sri Lanka. In interviews carried out by UNHCR Protection Officers among the quarter of a million Muslim refugees who fled from Myanmar to Bangladesh in 1992, allegations of rape figure prominently among the reasons given for flight. The conflict, banditry and anarchy that have characterized much of the Horn of Africa in recent years have resulted in large numbers of refugee women being raped or sexually abused prior to flight and, in some instances, after arrival in a country of asylum.

Sexual violence may be targeted directly at women themselves or, through them, at their families. Often, the aim of rape is to inflict deep and lasting damage on entire communities. There have been reliable reports of rapes being carried out in front of whole villages in order to spread terror and force people to flee.

An exact numerical assessment of rape cases is always difficult. Because of the stigma attached to its victims in many cultures, rape is one of the most under-reported crimes even in peace-time. Always highly emotive, in times of war and social breakdown the subject of rape is prone to manipulation for propaganda purposes.

Since April 1992, the former Yugoslavia has undoubtedly provided the most publicized example of rape being used as a weapon to further war aims such as “ethnic cleansing”. Exactly how many rapes have been committed since the beginning of the conflict will never be known, although extensive evidence gathered by independent sources leaves no doubt that rape has occurred on a massive scale. All the warring parties have been implicated, though to varying degrees. A European Community team of investigators that visited the former Yugoslavia in December 1992 concluded that large numbers of Muslim women and girls in Bosnia and Herzegovina had been raped as part of a systematic campaign of terror.

Over the years, governments of countries admitting refugees have increasingly, though by no means uniformly, recognized that sexual violence can be used as an instrument of persecution, thereby providing valid grounds for claiming refugee status. Women who have suffered, or who have a well-founded fear of suffering, sexual violence because of their membership of a particular social group deserve to be granted international protection and

recognized as refugees under the 1951 Convention.

Box 4.3 Children in War

Children are among the principal victims of war. They are killed, maimed and traumatized during indiscriminate attacks on civilian communities. They are frequently subjected to abhorrent practices, including torture, rape, detention and conscription into military service. They also suffer disproportionately from the side-effects of conflict, such as famine, malnutrition, disease and separation from their families. Those who survive are likely to be scarred for life.

There is nothing more natural than for desperate parents to wish to protect their children from the ravages of war. In April 1993, the media reported on a nine-year-old Bosnian boy, Almedin Borakovic, who had been evacuated from Srebrenica to Tuzla. His mother had been killed by a mortar shell in the besieged Muslim enclave. When his desperate father thrust him onto a truck packed with evacuees, he found himself in charge of four younger brothers and sisters, aged between 18 months and five years. The Borakovics were among the many unaccompanied children evacuated from Srebrenica. Their story echoes the fate of numerous children in other wars raging around the world today.

Children trapped in war zones are a highly emotional issue. The desire to shelter them from atrocities has led to many courageous and praiseworthy initiatives. Unfortunately it also sometimes results in inappropriate responses. In dire circumstances, there may well be no alternative to evacuation, but hasty, ill-thought-out actions that separate children from their families often fail to take into account the best interests of the child. Such actions range from the misguided to the irresponsible or even criminal. The worst cases involve the removal of children for financial gain as part of international adoption rackets.

In 1992, as the situation in Bosnia and Herzegovina rapidly deteriorated, there was mounting pressure to evacuate children from its besieged capital, Sarajevo. One independent German initiative ended in tragedy when, on 2 August 1992, snipers opened fire on a convoy of evacuees, killing two children. It was subsequently discovered that the mother of one of them, supposedly an orphan, had not been informed that her child was being evacuated.

The war in Bosnia has produced other disturbing accounts. Newspapers described how private individuals visited conflict areas and “rescued” children by pretending to be their parents. They were lauded as heroes who had avoided red tape to save children’s lives. Little attention was paid to the evacuated children themselves. Were they really orphans, as was often subsequently claimed? In times of war, it is hard to be sure. Past experience has shown that careless evacuation can easily lead to the permanent destruction of families.

In August 1992, in an effort to discourage such actions, UNHCR and UNICEF issued joint guidelines on the evacuation of children from war zones. They highlight two main principles. First, when possible, mother and siblings should also be evacuated to avoid splitting up families. Second, evacuated children must be thoroughly documented so that the family can subsequently be reunited.

Ill-conceived attempts to shelter children from war stand in sharp contrast to the practice of forcing them to take an active part in the fighting. Angola, Cambodia, Mozambique, Somalia and Sudan are just a few of the conflicts that have produced child soldiers. International humanitarian law and the UN Convention on the Right of the Child stipulate that children below the age of 15 shall not be conscripted into armed forces. Nevertheless, refugee and returnee children under 15 continue to be recruited, forcibly or voluntarily, both for active combat and equally unacceptable support functions such as carrying ammunition or scouting for military patrols.

The plight of child soldiers was all too clearly illustrated by the group of 12,500 unaccompanied Sudanese boys who crossed the border into Kenya in May 1992. Some of them began their odyssey as long ago as the mid-1980s when fighting in southern Sudan

forced them to flee to Ethiopia. Having returned to Sudan following the collapse of the Mengistu regime in Ethiopia, they were forced to flee again, this time to Kenya. When fresh attempts were made to recruit them into armed forces, UNHCR arranged to relocate the camp 120 kilometers away from the border. Many of the boys have no idea whether their parents are alive or dead, and if alive where they are. In such circumstances, reuniting them with their families is immensely difficult. In the meantime, they remain vulnerable to the same violent forces that have dogged their seemingly endless ordeal.

Box 4.4 Who Will Protect The Protectors?

Hundreds of people have been killed while working for international organizations, sometimes deliberately, sometimes caught in the cross-fire. Many others have been injured, tortured, abducted, detained or expelled. The following list includes only those UN staff members killed between 1973 and 1 June 1993 in the course of carrying out their duties. It does not include accidental deaths. Nor does it include peace-keeping troops killed in the service of the international community; nor the hundreds of relief workers employed by NGOs, the ICRC and other organizations, who have lost their lives over the years. It is, nevertheless, dedicated to all of them.

In Memoriam

OLIVARES-MORI, Fernando	ECLAC	Killed	Chile	06 Oct. 1973
SORIA-ESPINOSA, Carmelo	ECLAC	Killed	Chile	14 July 1976
KAMKAI, Bismillah	UNDP	Executed	Afghanistan	05 May 1979
SCHULTZ, Konrad	UNIDO	Killed	Guatemala	11 May 1982
EVNER, Ergun	UN	Assassinated	Austria	19 Nov. 1984
BREIR, Nabila	UNICEF	Killed	Lebanon	18 Dec. 1986
SHAH, Tawakal	UNICEF	Died in prison	Afghanistan	— May 1987
JAWAD, Abid	UNIFIL	Killed	Lebanon	21 May 1987
DARNISH, Jebreal Ibrahim	UNIFIL	Killed	Lebanon	26 May 1987
ZEIDAN, Sa'adi Mohammad	UNRWA	Died in detention	Syria	07 July 1987
HIGGINS, William R.	UNTSO	Executed	Lebanon	17 Feb. 1988
YASSIN, Zeidan Suleiman	UNRWA	Died in prison	Lebanon	17 Dec. 1988
NYIRENDA, Abel	FAO	Died after detention	Zambia	29 April 1989
HLASS, Gena	UNICEF	Killed	Lebanon	07 Dec. 1989
ARYAMBA, Frazer Fedit	WFP	Killed	Sudan	21 Dec. 1989
ARIKWANG, Angello	WFP	Killed	Uganda	15 March 1990
KAZMUZ, Yasir	UNRWA	Killed	Israel/West Bank	28 March 1990
DAROD, Issak Dhagan	UNHCR	Killed	Somalia	06 Dec. 1990
ABRAR FARAH, Adan Harun	UNHCR	Killed	Somalia	08 Dec. 1990
AINANSHE, Ahmed Liban	UNHCR	Killed	Somalia	04 Feb. 1991
OMAR, Abdillahi Sheikh	UNHCR	Killed	Somalia	02 July 1991

PUMPALOVA, Marta	UNICEF	Killed	Somalia	05 Jan. 1992
MUHE, Tekye	UNHCR	Killed	Ethiopia	10 March 1992
GARAD, Abdi Maalim	UN	Killed	Somalia	24 March 1992
MUTACA, Lourenço	UNHCR	Killed	Ethiopia	31 March 1992
AL-BUHAIISI, Abdel Mu'ti	UNRWA	Killed	Israel/Gaza	11 May 1992
EL-FADI, Mamdouh Yousef	UNRWA	Killed	Israel/Gaza	21 May 1992
KASASHIMA, Kimio	WFP	Killed	Pakistan	14 June 1992
TAKIA, R.	UN	Killed	Iraq	17 July 1992
RAPPAPORT, Avinoam	ICAO	Assassinated	Kenya	20 July 1992
BEKERAN, Najibullah	UNCHS	Killed	Afghanistan	09 Aug. 1992
HUSINEC, Aram	UNESCO	Killed	Nigeria	12 Aug. 1992
MAUNG, Myint	UNICEF	Killed	Sudan	27 Sept. 1992
NGURE, Francis	UNICEF	Killed	Sudan	30 Sept. 1992
DEVEREUX, Sean	UNICEF	Killed	Somalia	02 Jan. 1993
SARY, Ty	UNTAC	Killed	Cambodia	12 Jan. 1993
HANG, Vicheth	UNTAC	Killed	Cambodia	12 Jan. 1993
BULLARD, Tony	UNCHS	Killed	Afghanistan	01 Feb. 1993
ZIA, Al Haq	UNCHS	Killed	Afghanistan	01 Feb. 1993
MATUKA, David Kabala	UNESCO	Assassinated	France	04 Feb. 1993
AWAD, Ali Soradi	UNRWA	Killed	Israel/Gaza	23 Feb. 1993
AFONSO, Alfredo	WFP	Killed	Angola	24 Feb. 1993
SHIVINDA, Pedro	WFP	Killed	Angola	24 Feb. 1993
AL GHARIB, Yusif	UNRWA	Killed	Israel/Gaza	18 March 1993
ROUF, Mohammad	JIU	Killed	Cambodia	29 March 1993
NAKATA, Atsuhito	UNV	Killed	Cambodia	08 April 1993

Principal source: ASIICS. With apologies to the relatives of any staff member whose name has inadvertently been omitted.

Box 4.5 Protecting Assistance in Bosnia and Herzegovina

In November 1991, at the request of the Secretary-General, UNHCR assumed the role of “lead agency” responsible for co-ordinating United Nations humanitarian assistance in the former Yugoslavia. At that time, about 500,000 people had been displaced by the war in Croatia.

In April 1992, a second, more terrible war broke out in neighbouring Bosnia and Herzegovina – an ethnic mosaic of Muslims (44 per cent of the population), Serbs (31 per cent) and Croats (17 per cent). Within three months, the number of refugees, internally displaced people and others in need of assistance in the former Yugoslavia had soared to 2.6 million.

A year later, in July 1993, the total number of people requiring assistance and protection stood at 3.6 million, including 2.3 million in Bosnia and Herzegovina alone. If the hundreds of thousands of Bosnians who have fled to neighbouring countries are included, over two-thirds of the Bosnian population has been directly affected by the conflict.

The upheaval in the Balkans has prompted one of the largest relief operations in modern history. It has also drawn United Nations peace-keeping forces into close collaboration with humanitarian agencies in order to protect relief deliveries to civilian populations caught up in the war. Operations have taken place against a backdrop of intensive, vicious warfare and constant violations of human rights. The blockades of villages and towns, the relentless shelling, and persecution and forcible expulsion of civilians have created a terrifying spiral of suffering, displacement and destruction.

With the land routes to the Bosnian capital of Sarajevo cut off, the UN Security Council adopted a resolution on 29 June 1992, charging UN peace-keeping troops with the security and management of the city's airport. Four days later, on 3 July, the humanitarian airlift to Sarajevo began – the largest operation of its kind since the Berlin blockade of 1948-49. During the first year of the airlift, over 46,000 metric tons of food and medical supplies were flown into the besieged capital, in more than 4,150 sorties by aircraft supplied by some 20 nations, providing the 380,000 inhabitants of Sarajevo with a vital lifeline to the outside world.

Meanwhile, a massive land operation involving the haulage of approximately 9,000 metric tons of emergency assistance each week was launched to provide relief to other areas of Bosnia and Herzegovina. Faced with the continuous harassment of relief convoys, the Security Council took an unprecedented initiative in September 1992 by extending the mandate of UNPROFOR peace-keeping forces to include the protection of humanitarian assistance. UNPROFOR's French, Spanish and British contingents – assisted by Dutch and Belgian transport units – have subsequently been providing military escorts to relief convoys.

Without these escorts, the humanitarian effort would almost certainly have ground to a halt. However, the ruthless obstruction of the relief operation has continued, despite repeated assurances and commitments from the various parties to allow free passage of humanitarian aid. Relief convoys have frequently been blocked for days or even weeks on end. Because of the continuing denial of access to the besieged Muslim enclaves in eastern Bosnia, where hundreds of thousands of people have been subsisting under appalling conditions, airdrops of food and medical supplies were started in March 1993 by the air forces of the United States, France and Germany. Between March and July, well over 5,000 metric tons of supplies were parachuted into Srebrenica, Gorazde, Zepa and other locations. In some cases, and sometimes for long periods, the airdrops have provided their only lifeline while efforts continued to reach them by road.

In April, the conflict entered a new phase as fighting between Croat and Bosnian government forces escalated in central Bosnia and further south in the region around Mostar, Jablanica and Konjic. Tens of thousands of civilians fled or were trapped in besieged pockets, as "ethnic cleansing", once associated almost exclusively with the Bosnian Serbs, was practised by all sides.

On 4 June, the Security Council, acting under Chapter VII of the United Nations Charter, extended UNPROFOR's mandate to cover the protection of all the towns and besieged enclaves which the Council had earlier designated as "safe areas". The increased international presence probably saved Srebrenica from falling in April, and may have alleviated the pressure on one or two of the other "safe areas". However, Srebrenica, Gorazde and Zepa – all three completely encircled by Bosnian Serb forces – could not, under the almost intolerable conditions existing in July 1993, be described as truly safe, let alone economically viable in the long term.

By July, Sarajevo – another designated "safe area" – was also in an increasingly dire state.

The city was without electricity for weeks on end, and critically short of all other forms of fuel. The water supply was deliberately sabotaged, and reports were received of people so desperate that they had resorted to boiling sewage. The sewage system had itself broken down, and there was an increasing danger of major epidemics. Meanwhile the shooting and shelling continued and Sarajevo seemed to be slowly but steadily dying.

In an increasingly precarious operational environment, UNHCR and UNPROFOR have been consistently forced to take part in protracted, and all too often inconclusive, negotiations to reach certain locations and guarantee the security of convoys. By early 1993, it had become clear that all three of the warring parties were seeking to manipulate humanitarian assistance to their own advantage and to prevent food and other supplies from reaching their enemies. UNHCR and UNPROFOR were accused either of taking sides, or of being too neutral. Food, shelter, water, fuel, electricity and even the evacuation of children and wounded were being employed as political and military weapons (see Chapter Five, Box 5.2). Any excuse, ranging from military to bureaucratic, was being used to prevent, delay or divert the free flow of assistance. Frequent attempts were made to levy exorbitant tolls on convoy vehicles. As a result, by mid-1993, less than half of the total relief required was being delivered to its final destinations. As early as the end of 1992, United Nations and other relief personnel were being deliberately targeted. The Sarajevo airlift has been repeatedly interrupted by serious security incidents, including the shooting down of an Italian transport plane on 3 September 1992 with the death of its four crewmen. By the first anniversary of the airlift, on 3 July 1993, at least 81 major incidents had been recorded, not counting the numerous occasions when small arms fire has been directed at planes, personnel and airport buildings.

The security situation has been particularly bad in the Mostar region in the south of the country, and in central Bosnia. In February 1993, an interpreter was killed and a Danish relief worker seriously wounded when a UNHCR convoy was attacked near Mostar. On 1 June, a convoy was ambushed just outside the besieged town of Maglaj in central Bosnia where 32,000 people were under fierce artillery attack by Bosnian Serb forces. Two of the Danish convoy drivers and one relief worker were killed and five others injured in the incident. In early July, the UNHCR office in Medugorje received bomb threats because of the ethnic origin of some staff members, and a fuel convoy trying to reach Sarajevo was hijacked. Supplies have frequently been seized at gunpoint. By mid-July, eight people involved in the UNHCR relief operation had lost their lives and many more had been wounded. The ICRC and several NGOs had also suffered serious casualties, and 51 UNPROFOR soldiers had been killed in Bosnia and Herzegovina and in the United Nations Protected Areas (UNPAs) in Croatia.

The partnership between UNHCR and UNPROFOR has given rise to concern in some quarters that humanitarian aid may lose credibility or, worse, become politicized through association with a military presence. However, in circumstances such as those prevalent in Bosnia and Herzegovina, there has been no realistic alternative and it can be argued that drawing the military into playing an active humanitarian role – which, in certain situations only the military is equipped to perform – is an important and life-saving development.

There can be little doubt that the presence of UNPROFOR alongside UNHCR in Bosnia and Herzegovina has greatly helped the delivery of emergency relief. In spite of the relatively small number of troops involved – around 6,200 by mid-1993 – they have significantly improved delivery capacity. Even if the humanitarian aid has never reached the volume and consistency required, it nevertheless played a key part in averting a major humanitarian catastrophe during the winter of 1992-93. Whether that catastrophe has simply been postponed to the winter of 1993-94, will depend to a large extent on the international community's commitment to continue providing supplies, funding and sufficient numbers of peace-keeping troops equipped to protect an increasingly beleaguered humanitarian relief effort.

Box 4.6 A Week in Bosnia and Herzegovina

Excerpts from UNHCR Situation Reports: 19-25 June 1993

Muslim enclaves in eastern Bosnia: 21 June: Bosnian Serb authorities finally allowed UNHCR to establish a presence in **Gorazde**, the last “safe area” to receive international presence [a team of 8 United Nations Military Observers (UNMOs) entered the town 5 days earlier]. On 22 June, after a 2-day hold-up, a 10-truck UNHCR convoy delivered 80 metric tons (MT) of food and medical supplies. A second convoy was repeatedly prevented from reaching Gorazde by crowds of Serb women. Two airdrops, during nights of 21 and 22 June, delivered additional 113.4 MT of supplies. 20 per cent of the town reported destroyed. Hospital overcrowded... no operating room... no anaesthetist. Scores of wounded forced to stay in their homes. Bread in short supply. Only valid currency is cigarettes: one pack worth DM100. Lack of footwear – inhabitants making sandals out of tyres and parachute cord.

Situation in **Srebrenica** continues to deteriorate, though cease-fire seems to be respected. Serbs only permit one UNHCR convoy per week. Sole water treatment plant irreparably damaged. Only solution appears to be rehabilitation of another treatment plant, abandoned 10 years ago.

Zepa remains calm. No injury or casualty since 8 May, partly due to UN presence. Road repairs have begun and elementary education has resumed.

Central Bosnia: Bosnian Croats refused entry to 60 trucks in 5 convoys. Only some 4,000 MT of relief supplies have reached central Bosnia this month. Reports of artillery and mortar fire in Turbe, Travnik and **Zenica**. Heavy fighting around Gornji Vakuf. Fighting and ethnic cleansing directed at Muslims erupted in Vares (a small Croat-held town 50 km north of Sarajevo), while Muslims continued the same practice with Croats in Kakanj. Vares flooded with 15,000 Croat refugees fleeing from Kakanj. Refugees accommodated in 2 schools, 2 sports halls and 2 disused factories. UNHCR delivered 90 MT of supplies.

UNHCR convoy destined for [Muslim-held] Tuzla thoroughly searched in Vares, where [Croat] HVO forces state they will continue to inspect all UNHCR vehicles travelling north. Attitude towards international agencies has deteriorated in Tuzla, due to sense of isolation. Latest news of huge Muslim “Convoy of Joy” is that, after being rescued by British UNPROFOR troops from HVO attack, 240 trucks finally made it to Zenica, 40 to Kladanj/Olovo area and 214 to Tuzla.

Western Herzegovina: HVO forces forcibly evicted 150 displaced Muslims – originally from Banja Luka – from Posusje. Local Croat officials sought UNHCR assistance in transporting the displaced, which was refused in light of their forced eviction.

Sarajevo: Heavy shelling of previous week gave way to relative calm. Lack of water and electricity becoming critical. On 22 June, 6 children and 10 family members evacuated to Paris for medical reasons.

Airlift [suspended on 15 June after gunfire erupted close to 2 incoming planes and destroyed windows of control tower] resumed 20 June. Between 20 June and 26 June, 1,077 MT of humanitarian aid were flown into Sarajevo in 93 separate sorties.

Bihac: Relatively calm. People are outdoors and free to be socially active for the first time since the beginning of the war.

Banja Luka: Leaders of both Croat and Muslim communities visited UNHCR offices. Muslim villagers report nightly attacks and incidents of murder. Croats report that houses have been burned, others looted and occupants beaten in one of their villages.

A few of the security incidents during the week: A Norwegian UNMO seriously wounded when hit in the chest by a .50 calibre round in Gorazde. Another UNMO team's armoured

vehicle put out of action by the same weapon. Shots fired at an UNPROFOR driver in a patrol vehicle near Belgrade, narrowly missing his chest. A hand grenade missed the vehicle, but caused considerable damage to the road. Spanish UNPROFOR armoured vehicle surrounded by HVO soldiers in Mostar. In Sarajevo, four local Serbian interpreters travelling in an UNMO vehicle, were arrested by BiH [Bosnian government] forces, but later released. Canadian UNPROFOR troops at Pelimica threatened with a rocket-propelled grenade by HVO forces who accused them of delivering weapons to the BiH army. UNHCR convoy escorted by British UNPROFOR forces unable to enter Novi Travnik due to shelling by local Croats not wanting aid to reach BiH side. Negotiations failed and convoy returned to Zenica. A UNHCR convoy was stopped at a BiH checkpoint in Dabrovine. BiH army demanded 50 per cent of load as price for letting it through to Vares. The convoy turned back and off-loaded at Breza.

1 Boutros Boutros-Ghali, *An Agenda for Peace: Preventive diplomacy, peacemaking and peacekeeping*. Report of the Secretary-General pursuant to the statement adopted by the summit meeting of the Security Council on 31 January 1992. New York: United Nations, June 1992.

2 Report of the Secretary-General on the Work of the Organization. New York: United Nations, 1991.

3 Report of the Secretary-General on the Work of the Organization. New York: United Nations, 1992.

4 See John Mackinlay, "Military Force in the Service of Humane Values," in Thomas E. Weiss and Larry Minear (eds.). *Humanitarianism Across Borders*. Boulder (US): Lynne Rienner, 1993.

5 The first systematic codification of human rights, based on the Universal Declaration of Human Rights of 1948, is contained in the International Covenant on Economic, Social and Cultural Rights of 1966 and the International Covenant on Civil and Political rights of the same year (see Annex II.4).

6 The First Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field.