

The State of the World's Refugees 1993

Chapter Seven Prevention

Prevention – if it can be accomplished – is the most effective form of protection for people in danger of becoming refugees. As recent events have shown all too clearly, the international community must take earlier and more effective action if it is to prevent potential refugee-generating situations from deteriorating to the point where flight becomes the only option. The crises in the Horn of Africa, the former Yugoslavia, the Caucasus and elsewhere have followed a broadly similar pattern of evolution, albeit under very different circumstances: in each case, tensions arising from unresolved political, ethnic, religious or nationality disputes led to human rights abuses which became increasingly violent. Left unchecked, this process frequently develops into armed conflicts that force people to flee their homes, and often their countries, in search of safety. By then, it has proved too late to avert widespread suffering, and far more difficult to assist and protect people or to achieve lasting solutions.

The types of mass displacement that have occurred over the past decade or so cannot be handled solely by providing protection in countries of asylum. Of the three conventional forms of solution for refugees – local integration in the country of first asylum, resettlement in another country or voluntary repatriation – the first two are under severe pressure because of the sheer magnitude of the outflow. The developing countries that provide sanctuary for the vast majority of the world's refugees face economic, environmental and political problems which make it increasingly difficult for them to shelter masses of people for long periods. Wealthier countries also face political, social and economic pressures to adopt more restrictive policies toward asylum-seekers. Many traditional countries of resettlement are showing greater reluctance to accept new refugees. In some, there is an indiscriminate social backlash against all forms of immigration.

While very few people would argue with the truism that prevention is better than cure, in the refugee context prevention is a controversial issue. The concept itself is open to misinterpretation, and even to misuse. Preventive action can take a constructive form. It can be aimed at protecting potential victims, forestalling an increase in the numbers of those already affected and promoting solutions to their problems before they are forced to flee. Less positively, it can simply involve throwing up barriers to stop victims of persecution and violence from entering a country. Constructive prevention aims to reduce or remove the conditions that cause people to flee, while the negative version – which should more properly be called obstruction – makes escape from persecution and danger more difficult, or impossible.

“The cost of failure to take preventive action can be very high”

Unfortunately, obstructive prevention does take place, in a number of different forms. These range from the forcible turning back of refugees at frontiers, to interdiction on the high seas followed by direct return, to bureaucratic requirements for exacting documentation in advance of entry. Milder forms of obstructive prevention go under the name of deterrence, a tactic that erects barriers to all immigrants and imposes harsh conditions upon reception, on the questionable assumption that economically motivated migrants will be discouraged while refugees will not. In reality, practices that raise barriers for one group raise them for all.

Prevention of refugee flows can be initiated long before, immediately before, or at various stages during the development of a crisis. Measures to prevent the recurrence of a crisis are, moreover, a crucial element in implementing enduring solutions.

At the most general level, prevention is – or should be – directed at root causes, and goes far beyond the scope of humanitarian concerns alone. Displacement is the symptom of a host of social ailments. Preventing the accumulation of social and economic strains that produce refugee-generating conflict and persecution is a many-faceted undertaking. It involves promotion of human rights, economic development, conflict resolution, the establishment of accountable political institutions, environmental protection and so forth. It encompasses, in other words, virtually the whole of the human agenda, with particular emphasis on the responsibilities of states to care for all their people without discrimination. At this level, successes in prevention are impossible to measure while failures to prevent the occurrence or recurrence of refugee-producing crises are all too easy to quantify.

Far-sighted, all-embracing prevention has rarely been attempted, and generally only on a remedial basis in order to prevent the recurrence of major disaster. Perhaps the most spectacular examples are the post-World War II reconstruction of West Germany and Japan, designed to avoid repeating the mistakes made in the aftermath of World War I, and the Marshall Plan for Western European recovery. Of a lesser magnitude, but still important, are current programmes to consolidate the peace-making processes in Cambodia and Central America.

Rather than addressing root causes well before people are obliged to flee, most preventive efforts focus on immediate causes, when flight is imminent or has already started. Typically, they involve attempts to repair relations between people and their government before it is too late and to provide supplementary or substitute protection until this can be accomplished. In this respect, prevention is closely linked to the promotion of solutions. Efforts to stabilize internal population movements and to provide protection and humanitarian relief for internally displaced and other civilian victims within their home country are, in many instances, inseparable from measures to foster conditions conducive to the voluntary return of those who have already left. Finally, prevention involves helping states set up effective institutions, laws and procedures that enshrine the principles of national protection and guarantee the rights of minorities. The cost of failure to take preventive action can be very high, as illustrated by the situation of the Kurds and Shi'ites in Iraq and that of the Muslim population in Bosnia and Herzegovina.

Early warning, monitoring and reporting

The success of prevention depends on effective early warning of impending displacements. Early warning, in turn, relies on the systematic collection and analysis of observations from potential refugee-producing areas. Because the causes of forced population movements are so broad and complex, the task of monitoring is enormous. Even when it is founded on the best information, however, early warning is only useful if it sets in motion a policy response. It is not preventive in itself (although monitoring may be, to a limited extent). At most, it can provide a sound basis that may help policy-makers to make informed and timely decisions. But its value depends entirely on whether or not it leads to effective preventive action.

Among the danger signals that early warning can pick up are human rights violations, the manipulation of communal tensions in political campaigns and increased numbers of stateless people. Violations of rights, particularly if systematically directed at the members of one ethnic, religious or national group, are a direct cause of flight. They also contribute to the development of armed conflict, which is the single biggest cause of displacement. In many countries, the contest for political power is waged in divisive terms, with benefits distributed to supporters from a particular region, clan or ethnic group while rival groups are repressed. The formation of new states (and sometimes radical changes of regimes in existing states) may result in the withdrawal of nationality rights from substantial numbers of people resident in the territory of the new state. This is a particular concern for the millions of Russians who have long resided in former Soviet republics other than Russia (see Boxes 7.1 and 7.2)).

Early warning systems are intended to identify risk factors and bring them to the attention of the international community, prompting positive action to avert potential or emerging refugee flows. The reports of humanitarian and development workers, journalists, citizens' groups and scholars may all feed into such systems (see Box 7.3). However, the most reliable method for

anticipating problems is through direct monitoring. Stationing observers in the field is costly, but it serves a valuable purpose in addition to early warning. Monitoring and reporting raise the potential stakes for those conducting a policy of displacement, or persisting in actions that cause it. Potential perpetrators of violence or persecution sometimes exercise restraint in the presence of external witnesses.

“Alarms raised by NGOs and others have all too frequently fallen on deaf ears”

To date, systematic monitoring and reporting arrangements have usually only been established when a crisis is already under way. They have rarely been employed before displacement occurs. For example, monitoring by the Conference on Security and Co-operation in Europe (CSCE) and NGOs of the situation affecting the ethnic Albanian majority in the Kosovo region of Yugoslavia has had mixed results. The region has already seen a substantial exodus of people, but armed conflict – which would generate a much greater one – has not yet broken out. Serious violations of human rights nonetheless continue to occur even in the presence of monitors and despite publicity and widespread international condemnation. Discriminatory laws have been progressively introduced since Kosovo lost its status as an autonomous republic in July 1990, while continuous and unprovoked violence against non-Serbs has become a feature of daily life. Almost all Albanian-language schools above the elementary level have been closed; employees are required to swear an oath in support of the Serb government (elected in a poll boycotted by the majority of the ethnic Albanian population), and there have been mass dismissals of ethnic Albanians from public sector jobs. Repeated warnings to the Serbian authorities not to initiate ethnic cleansing in Kosovo have done little to improve the human rights standing of the Albanians.¹ In marked contrast to the situation in Kosovo, the Former Yugoslav Republic of Macedonia, for all its problems, illustrates the potential benefit of preventive initiatives that are underpinned by the policies of the government concerned. The republic is an ethnic mosaic – made more fragile by the effects of refugee inflows and the economic boycott of neighbouring Serbia – in which nearly 40 per cent of the population is made up of ethnic groups other than Macedonians. Despite the continuation of certain forms of discrimination against the Albanian minority, the government has welcomed international monitoring of human rights. The permanent presence of a CSCE mission has helped prevent the exacerbation of tensions and has also fostered positive developments. At another level, the preventive deployment of an UNPROFOR peace-keeping contingent to the Former Yugoslav Republic of Macedonia, in response to warning signals that the Yugoslav conflagration might easily spread there, appears to have reduced the likelihood of that happening.

Monitoring and reporting do not become redundant when refugees begin to move. They are still necessary to warn of further displacements, identify opportunities for mediation and build confidence for repatriation. Monitoring is often an important component of UN peace plans, for example in Cambodia and El Salvador (see Box 7.4). In situations such as these, monitors are needed to verify whether or not the parties to agreements honour their undertakings to respect human rights.

However, in many refugee-producing situations, clear and repeated early warnings of deteriorating human rights or dangers to the food supply have either been ignored by the international community or have elicited inadequate or sluggish responses. This was the case during the build-up to the Ethiopian famines of 1984-85 and 1989-90, the exodus from Iraq in 1991 and the upsurge of violence in Yugoslavia in 1990-91. It has also been evident in connection with existing and potential conflicts in the former Soviet Union today. Alarms raised by NGOs and others have all too frequently fallen on deaf ears. Although improved methods of collection, co-ordination and analysis of information may solve part of the problem, such measures will have little impact if the international community remains unable or unwilling to translate information into prompt and effective action on a scale commensurate with the problem concerned.

Preventive action

In the context of refugee flows, preventive action includes both political and humanitarian initiatives. Their combined aim is to avoid the breakdown of national protection, while meeting the material needs of people at risk of displacement, so that they do not have to cross borders in order to find food, medical care and other necessities. These two objectives are, of course, very closely related.

“Humanitarian assistance can play an important role in prevention”

At its most general, preventive action encompasses the entire range of contacts and negotiations that encourage respect for human rights, protection of minorities, observance of humanitarian law and good governance. When refugee flows seem imminent, however, the focus narrows to the specific conditions that put people at risk. At the diplomatic level, the means for addressing them include direct consultations with the governments concerned; appeals to the parties to the conflict (who may include insurgent groups or irregular forces) to observe humanitarian norms; and the convening of international conferences to focus concern on a particular problem. Personal visits by special envoys and high officials are often used to initiate direct contacts. For example, the UN Secretary-General has sent special envoys to Haiti and the former Yugoslavia in the recent past, as well as naming a special representative to report on the problems of internally displaced people.

Humanitarian assistance itself can play an important role in prevention. The negotiations involved in delivering assistance may create an opening for dialogue, drawing antagonists into discourse with external observers in a way that allows the international community to exercise some restraint on refugee-producing behaviour. In Central America and the Horn of Africa, assistance has helped to open up negotiations which, in time, moved on from initial questions of assistance to address the wider political disputes underlying the conflict. In some situations, however, the balance sheet is more mixed. There is concern, for example, that humanitarian assistance in the former Yugoslavia may, for all its compelling urgency, have masked the inability of the international community to solve the conflict and that it has, moreover, been manipulated by the warring parties for their own political ends.

“Legal systems need to be established or strengthened to provide better protection for minorities”

Direct intervention with governments is often the most productive form of prevention. Representatives of inter-governmental bodies can urge national authorities to discipline human rights abusers. For example, the political settlement in El Salvador made provision for a Truth Commission that investigated human rights abuses and extra-judicial killings perpetrated during the civil war. It recommended decommissioning some military officers and barring certain rebel leaders from running for public office. These proposals have been largely carried out despite reluctance from both parties. Similarly, international observers may intervene directly with local authorities to halt the maltreatment of particular groups – a form of action that may be particularly important in areas where local authorities such as mayors, village elders or tribal leaders have significant autonomy, or where central authority is contested, weakened or destroyed altogether.

International assistance to help states avoid creating conditions that lead to refugee flows constitutes another form of prevention. When a new government comes to power, or a new state is created, the lack of familiarity with the norms of both national and international humanitarian law may inadvertently contribute to a build-up of tensions among groups within the state. Training and technical assistance are needed for drafting human rights legislation and laws concerning nationality, statelessness, migration and so forth. Legal systems need to be established or strengthened to provide better protection for minorities, just and consistent settlement of grievances and a constitutional framework for the avoidance and resolution of

conflicts. Legal training and advice offered at an early stage can pay handsome dividends later on. Such measures hold a prominent place in UNHCR's strategy in Eastern Europe and the republics of the former USSR. On their own, however, they are unlikely to have a noticeable impact. Much more comprehensive – and expensive – political and economic packages are required to address the immense problems facing, for example, various African countries and former Soviet republics.

The close interlinking of social, economic and political factors has given rise to debate on the role of development assistance as a means of resolving the problems that produce refugees. In so far as economic deprivation forms part of the concatenation of causes that produce flows of refugees and migrants, economic assistance can be of help.

The scale and priorities of development aid, however, restrict its impact on the economic conditions that encourage displacement. Current bilateral and multilateral development assistance is of limited scope when compared with net capital transfers from the developing to the industrialized world in the form, for example, of debt servicing or unfavourable terms of trade. A recent estimate from UNDP indicates that trade barriers are costing developing countries ten times the amount they receive in aid.² Furthermore, a lot of aid is concentrated on the macro-economic level and thus works very slowly and indirectly, if at all, to promote the kind of human development that is of immediate benefit to the disadvantaged and marginalized groups who often become refugees. The beneficial effects of development assistance are, moreover, dangerously offset by the significant military component of many bilateral aid packages. Besides diverting scarce resources from economic development, this has undoubtedly increased the intensity of local and regional conflicts and exacerbated refugee flows in situations as diverse as Central America, the Horn of Africa, Afghanistan and Iraq.

Although better targeted development assistance with an emphasis on human needs – including job creation, education, health and the alleviation of poverty – has an indirect role to play in preventing the emergence of refugee situations, it is unlikely to be effective unless it is accompanied by political initiatives to resolve conflicts, manage underlying antagonisms and build institutions that effectively protect human rights. Indeed, aid provided without the prior establishment of favourable political conditions can simply reinforce oppressive regimes and accentuate inequalities. Economic development is itself a source of tension, as there are always relative winners and losers in the process. There are persuasive arguments for linking aid to the establishment of representative forms of government and respect for human rights, not least the rights of minorities.

“There is a growing recognition that human rights are a legitimate international concern”

Assistance and protection in countries of origin

To be effective, prevention must involve an active international presence at the grass-roots level. This is necessary in order to alleviate the pressures that threaten to uproot people and, when displacement has already occurred, to promote conditions that allow refugees and displaced people to return home. There is thus a compelling need for far-sighted assistance and protection strategies, that pay special attention to people who have already become displaced within their countries and are therefore in particular danger of becoming refugees. Naturally, the scope for such strategies depends on access and is, therefore, virtually nil in cases where the door remains firmly closed to international presence. Although presence is a vitally important element of prevention, its effectiveness depends on its scale, among other factors. Presence does not in itself guarantee success, as the shameless proliferation of ethnic cleansing in the former Yugoslavia has all too graphically demonstrated.

The question of access raises a number of concerns about the general principles that guide international decision-making as well as actual practice on the ground. Operating within the territory of a state to assist and protect people in fear of their own government is at odds with the notion that national sovereignty is inviolable. United Nations resolutions on this question

make it clear that humanitarian assistance should be rendered with the consent of the government concerned. At the same time, there is growing insistence within the international community that consent for purely humanitarian actions should be given as a matter of course. That insistence, however, may sometimes be motivated by concerns which go beyond the humanitarian and tends to be more vocal when the interests of powerful states are directly involved – as in the case of Iraq or the former Yugoslavia – than when the problem is more peripheral to their concerns.

There are practical as well as legal reasons for requiring the consent of governments. Their opposition can endanger the effectiveness as well as the durability of any improvements brought about by in-country assistance, whereas their participation can enhance and extend the benefits.

These concerns are particularly relevant to the situation of the internally displaced. Although there are no precise statistics for the numbers of internally displaced around the world, 24 million is probably a fairly conservative estimate.³ Many are victims of the same upheavals that have produced refugees, for example in Afghanistan, Guatemala, the Horn of Africa, Sri Lanka and the former Yugoslavia. Most are potential refugees. Like refugees, they are particularly vulnerable. They need protection, assistance and a solution to their plight. And in many instances they, like refugees, cannot rely on the protection of their own governments. Yet there are substantial constraints on providing assistance to internally displaced people, and even more substantial problems in protecting them. The international community is reluctant to take action within the territory of a sovereign state without the consent of the government. Obtaining such consent often entails difficult and laborious negotiation and substantial political pressure.

When the territory in which people are displaced is not under the control of a recognized government, the question of consent is doubly difficult. As the case of Somalia demonstrates, protection of the internally displaced is constrained not only by state sovereignty but also by the decline or collapse of state authority. As countries break up into self-proclaimed republics, and republics fragment into territories ruled by warlords, it is difficult to know who bears responsibility for protecting people, and to find someone with whom to negotiate access to people in need. Warlords, unlike even the most maverick of governments, are particularly resistant to reasonable persuasion. In some cases – such as Liberia, Iraq and Somalia – armed intervention may be the only effective option.

There is a growing realization that it is senseless to insist that people in flight must cross an international border before they can be offered assistance, particularly if it is the need for assistance that is propelling them toward the border. Yet only by crossing a border does a person fleeing from persecution or violence come under the protection of existing international refugee law. Provisions in international law for assistance to people displaced within the borders of their own country are limited. International humanitarian law provides for the protection of civilians in internal armed conflicts, in particular through Additional Protocol II to the Geneva Conventions. However, Protocol II only comes into full operation when the party opposing the government has an organized armed force, which it is using to exert control over a significant slice of territory. Consequently it does not apply in cases of internal disturbance and tension, even though violence and violations of human rights may be widespread. The Protocol does not, for example, apply to either Haiti or Kosovo at present.

Human rights law does apply to these and similar situations. However, it is considerably weakened by the fact that governments are allowed to excuse themselves from many human rights guarantees during a state of emergency – precisely the time when the need for protection is likely to be greatest. There is no effective international mechanism to question the need for governments to resort to such emergency powers, nor any means to prevent human rights violations when a state abuses its powers.

Similarly, there are no specific legal instruments addressing the protection needs of internally displaced people, nor any internationally mandated body with overall responsibility for them. Securing observance of the norms of human rights and humanitarian law for this group is one of the most important challenges facing the international community. Meeting it will require the

development of institutional and practical mechanisms to protect the human rights of the displaced and to ensure their access to humanitarian assistance. The growing recognition that human rights are a legitimate international concern is gradually allowing international bodies greater scope for attending to the needs of the internally displaced.

“The international community is gradually acquiring greater scope for attending to the needs of the internally displaced”

Protecting and assisting people inside their own countries is sometimes desirable in its own right. It may help people to avoid having to move at all. Those who have moved may be able to remain closer to home, and consequently find it easier to return when conditions permit. In other situations, in-country assistance is merely the least unsatisfactory of a limited range of choices when other countries are unwilling to provide asylum even on a temporary basis, or when endangered people are themselves unable or unwilling to move across an international border. The Kurds of northern Iraq faced this kind of situation in early 1991; many Bosnian Muslims remain trapped in areas of great danger today.

Innovative responses

The challenge of protecting people within their own countries – whether from violence, persecution or the effects of serious deprivation resulting from conflict – requires innovative responses. One of its effects has been to draw the United Nations into approaches that increasingly combine political and humanitarian initiatives in an effort to prevent further displacement, restore peace and achieve solutions for people who have been uprooted. In Tajikistan, the civil war that erupted in May 1992 drove up to half a million people from their homes, including 60,000 refugees who fled to neighbouring Afghanistan. United Nations efforts to prevent escalation of the numbers of those displaced have gone hand in hand with action to promote the safe return of those already uprooted. Peace-making, peacekeeping and humanitarian initiatives have been drawn together into an integrated approach that attempts to embrace prevention, relief and solutions (see Box 7.5).

Two other new approaches have been pioneered by UNHCR in Sri Lanka and Somalia. In Sri Lanka, Open Relief Centres were set up to provide shelter to returning refugees and internally displaced people who might otherwise seek refuge abroad (see Box 7.6). In Somalia, an attempt is being made to create “preventive zones” that will obviate the need for people to leave the country to obtain food and, at the same time, help create conditions conducive to the return of refugees from Kenya (see Chapter Five, Box 5.4). In both cases, a clear link exists between prevention on the one hand and the pursuit of solutions on the other.

Reception centres were first established in Sri Lanka in 1987 to ease the repatriation of ethnic Tamil refugees from India. They were designed as a sort of half-way house between exile and the reintegration of the returnees into their home communities. As repatriation got under way, a new outbreak of fierce fighting in northern Sri Lanka threatened to displace the returnees again, along with other residents of the areas. Even as the fighting continued, both sides agreed to an expansion of the relief centres to provide safety and sustenance to the local population so that they could stay in the country if they wished to do so.

The establishment of the Open Relief Centres in 1990 was somewhat controversial. Some argued that their existence might encourage the major asylum country for the refugees, India, to force people to return to Sri Lanka against their will. However, an agreement reached with the Indian government in July 1992, allowing UNHCR to monitor return movements from India so as to ensure that they are voluntary, allayed that concern. There has also been anxiety that the concentration of people in the centres creates easy targets. But the neutrality of the Open Relief Centres has been largely respected by the parties to the conflict, and thousands of people have sought shelter in them at one time or other. While providing an alternative to seeking safety abroad, the arrangement does not create obstacles for those who still wish to escape further afield.

“In complex situations, no response is unequivocal in its effects”

The establishment of “preventive zones” in Somalia in late 1992 arose from three principal concerns. One was the tremendous pressure on the refugee camps for Somalis in Kenya, which were housing more people than the fragile local environment and infrastructure could accommodate. Another was the deteriorating situation in border areas of Somalia and Kenya, where large numbers of people were gathering in extremely precarious conditions. And the third arose from the fact that the journey to Kenya was becoming more hazardous because of armed conflict and banditry in border areas, as well as land mines on the roads.

The preventive zones are partly created by the movement of supplies across the border from Kenya into areas of Somalia badly affected by conflict-related famine. The operation has three main objectives: to stabilize the remaining populations in the preventive zones; to bring relief supplies to people at risk of becoming refugees mainly because they lack food; and to create conditions conducive to the voluntary return of refugees residing in the Kenyan camps. The assistance taken across the border includes food, seeds, agricultural equipment and livestock. Small projects to rehabilitate schools, clinics and sanitation systems are also under way.

The protection role of preventive zones is indirect. The idea is based on the assumption that the chief cause of population movements in the targeted area is the search for food. Conflict and insecurity are also major factors, however, and it is often difficult to state categorically that one reason predominates. It is important to ensure that the effort to reduce one source of pressure to move does not deter people from attempting to escape from other equally or even more dangerous pressures.

In complex situations, no response is unequivocal in its effects. Concerns surrounding the preventive zone approach include the possibility that the initial assumption is incorrect. If the people leaving the targeted zones are fleeing primarily because of violence and persecution rather than food shortages, they are unlikely to be induced to stay by assistance programmes. But if they are, they may be exposed to greater risks than those which the assistance programmes are intended to alleviate. Preventive zones could also serve as magnets for people beyond the target area, thereby actually contributing to displacement rather than preventing it. Problems of sovereignty may arise in connection with cross-border operations, although in the case of Somalia the absence of effective central authority meant that sovereignty had ceased to be a real issue.

Because each refugee problem is unique, the possibility of providing protection in the country of origin must be judged case by case. In Sri Lanka, the Open Relief Centres were established with the consent of the government and the acquiescence of opposition groups. In Somalia, there was no central government to object or consent. The Allied military effort to provide a safe haven for the Kurds in northern Iraq illustrates the very high cost, in terms of finance, military commitment and continuing insecurity, when external protection is imposed without the co-operation of the government.

The idea of creating islands of safety within dangerous settings, so that people are not compelled to flee their countries, is an attractive one. Yet it is fraught with practical difficulties. Even an effective “safety zone” might have disturbing ramifications. It could serve as a pretext for other states to refuse sanctuary to people who still feel compelled to flee their country altogether. It might also dilute the sense of urgency about taking political initiatives to end the violence and persecution that drives people from their homes. And it could, in effect, ratify the creation of ghettos for beleaguered populations and even encourage mass expulsion. Despite the potential pitfalls, the search for innovative strategies to provide people with alternatives to exile must continue. As experience accumulates, the conditions for effective protection in countries of origin become clearer. Any innovation will have to meet three basic requirements: it must be fully consonant with human rights standards; it must not interfere with the fundamental right to seek asylum in another country; and it must not result in people being

compelled to remain in territory where they are in serious danger.

High hopes are invested in the notion of prevention. While exploiting its potential to the fullest, it is also important to retain an awareness of its limitations. The situation in the former Yugoslavia provides a sobering lesson in the extent of those limitations. Massive humanitarian assistance to well over two million internally displaced people and war victims in Bosnia and Herzegovina has undoubtedly limited the scale of refugee movements into neighbouring European countries. Nevertheless, attempts to tackle the causes of displacement have so far failed. International pressure has been repeatedly ignored; humanitarian assistance has been blocked and manipulated; civilians have been under constant attack; and negotiations at all levels have been obstructed. The pattern of gross violations of human rights known as “ethnic cleansing” has continued, even in the UN Protected Areas of Croatia. To be successful, prevention requires a modicum of local will to co-operate or at least a responsiveness to external pressure. In situations where uprooting is a primary aim rather than the by-product of conflict, there may be little scope for positive prevention beyond the deployment of international military force.

Prevention is not a substitute for asylum, for the very simple reason that it does not always work. Despite concerted efforts to attenuate the causes of forced departure and reduce the need for movement across borders, the fundamental right to seek asylum in other countries must be preserved.

Box 7.1 The Former Soviet Union: A Prevention Test Case

The end of the Cold War and the dissolution of the former Eastern Bloc have opened up a Pandora’s box of ethnic and regional tensions. In parts of the former Soviet Union, minority groups have either been expelled or have fled discrimination and conflict. Some 25 million Russians live outside the Russian Federation in the independent republics, while 72 million people live beyond the boundaries of the republics of their ethnic origin.⁴ The 1989 census reported 128 ethnic groups in the former Soviet Union, 22 of which consist of more than one million people (see Box 7.2). Just before the Soviet Union was dissolved, a Moscow periodical reported 76 clearly defined territorial disputes involving ethnic groups.⁵ Over the last three years, major conflicts in Azerbaijan, Georgia, Moldova and Tajikistan have produced more than a million refugees. The conflict over Nagorno-Karabakh, a region inside Azerbaijan populated mainly by Armenians, has caused the largest haemorrhage of refugees in the former USSR. By June 1993, almost 200,000 Azeris had fled from Armenia to Azerbaijan, while some 300,000 Armenians had escaped in the opposite direction. Within Azerbaijan, a further 300,000 people had been uprooted. In neighbouring Georgia, secessionist struggles in Abkhazia and Ossetia have caused numerous civilian casualties and large-scale population displacement. Elsewhere, the tensions in Moldova between ethnic Romanians and Slavs have caused extensive population movements, while in Central Asia, a power struggle in Tajikistan has led to massive displacement (see Box 7.5).

Tensions continue to rise elsewhere as nationalism in all of the 15 newly independent republics encourages secessionist tendencies and widespread discrimination against minorities. In the Baltic States, for example, new laws threaten more than a million ethnic Russians with statelessness. Similar problems are occurring elsewhere as new states adopt legislation that often fails to provide safeguards for minority rights. Within the Russian Federation, separatist sentiments in some of its 21 “Autonomous Republics”, have raised fears that the process of fission may not yet be over. If ethnic conflict spreads throughout the former Soviet Union, the resulting population movements could be immense.

There is therefore an obvious need to pre-empt forced population movements by tackling their causes or, failing that, to contain and manage them. As many instances of mass displacement are caused by problems involving minorities, these must be a key focus of preventive measures. Advice on drafting laws and institutions based on respect for human rights, backed up with effective human rights monitoring, is one field in which international

assistance may make a difference. Constitutional guarantees for minority rights and non-discriminatory nationality laws, in particular, need to be developed. Where tensions threaten to degenerate into violence, programmes are needed to encourage coexistence among diverse groups. Republics where fighting has already erupted may require help in setting up effective institutions for negotiation and conflict resolution. Such republics may also welcome assistance to increase their capacity to respond to refugees' needs and other problems of displacement, to prevent these from spreading and causing further destabilization.

The absence of appropriate national legislation has been a handicap in tackling problems of displacement, as has the fact that, until recently, none of the republics of the former USSR had ratified the 1951 Convention relating to the Status of Refugees or its 1967 Protocol.⁶ In late 1991, therefore, UNHCR began a programme of institution building and training, covering topics such as refugee law, human rights, immigration, nationality and statelessness.

As has been so dramatically demonstrated in the former Yugoslavia, prevention, mediation and conflict resolution cannot succeed without the political will of the parties directly involved. Preventing escalation of conflict and displacement in the former Soviet Union will require not only a more effective response from the international community as a whole, but also the willingness of the governments and people concerned to guarantee the rights of minorities and to commit themselves to conflict resolution. Their readiness to accept and indeed welcome assistance in building legal structures and political institutions to achieve these ends is grounds for some encouragement.

Box 7.2 Ethnic Map of Eastern Europe and the Former Soviet Union

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Box 7.3 The Advocacy Role of NGOs

Since time immemorial, men and women of good will have joined forces to campaign for humanitarian causes. The stand taken against slavery by the Quakers in the 17th century is an early example of the commitment of a group of people to improving the lot of humankind. Today, thousands of non-governmental organizations (NGOs) exist, both religious and secular, and more than 1,000 are involved directly or indirectly with refugees. Of these, some focus primarily on working with refugees in the field (see Chapter Five, Box 5.5), while others devote most of their energies to playing an equally vital advocacy role.

Modern NGOs seek to influence the policy decisions of the international community by sensitizing public opinion, the news media and politicians to important issues, by recommending actions and by exposing failures and abuses. Advocacy groups are especially active in matters concerning human rights, sustainable development and the environment – all areas that have a direct impact on population movements.

NGOs also make important contributions to the promotion, preparation, ratification and implementation of international legal norms. The Convention on the Rights of the Child and the Conventions adopted at the Earth Summit in Rio de Janeiro are recent examples of the creation of ground-breaking international legal structures that have been heavily influenced by NGO participation. NGOs played a similarly crucial role by helping in the preparation of the 1951 Refugee Convention. In fact, their contribution to international refugee protection can be traced right back to the beginning: it was a group of NGOs which, in 1921, pressed the newly-formed League of Nations to appoint the first High Commissioner for refugees.

It is by monitoring the implementation of laws and conventions, at both the national and international levels, that NGOs make perhaps their greatest impact. Through their presence on the ground, and with the help of extensive networks they have built up over the years, they

are the primary, and often the only, independent witnesses of human rights violations. They are thus indispensable partners in any strategy that aims to pre-empt refugee flows, as their testimony can provide early warning of potential movements and activate human rights mechanisms before refugees are forced to flee and seek international protection. NGO staff also frequently take direct action to halt flagrant human rights abuses – often at considerable personal risk. Their public denunciations of such violations can put considerable pressure on governments to take corrective action.

Current vital refugee issues in which NGOs have adopted a combative stance include the battle against racism and xenophobia in industrialized countries, the accompanying erosion of the right to asylum, and the widening gap between the industrialized countries of the North and the impoverished lands of the South. They are also the most vociferous campaigners on behalf of minority rights everywhere.

Many NGOs can operate unencumbered by the political constraints which sometimes hamper the policies and actions of inter-governmental organizations and national governments. Taking as their constituency those who are least able to present their own cases, they are at once the strongest supporters and most vocal critics of international programmes to protect and assist refugees. Both their support and their criticism strengthen international protection.

Box 7.4 Monitoring Human Rights in El Salvador

The United Nations Observer Mission in El Salvador (ONUSAL), set up by the Security Council in May 1991, is an integral part of the UN effort to end a 12-year civil war that cost as many as 75,000 lives. As part of a pioneering peace-building initiative launched in response to an internal conflict, ONUSAL has demonstrated the important role human rights monitoring can play in creating the confidence necessary to achieve and maintain peace.

In early 1989, the UN Secretary-General began the protracted and complex process of brokering a political agreement between the government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN), the guerrilla force that had been opposing the government since 1980. ONUSAL was born during, and became an important part of, that process.

The first major step towards a resolution of the conflict came with the conclusion of the San José Human Rights Agreement in July 1990 – almost two years before the final peace settlement was signed on 16 June 1992. The San José Agreement set out minimum standards for the protection of human rights in El Salvador, including an end to arbitrary arrests, detention and torture. Equally importantly, it established a framework for verification, which subsequently led to the deployment of more than 100 ONUSAL observers to monitor respect for human rights by both parties to the conflict.

ONUSAL was not originally intended to begin work until a cease-fire had come into force. However, it was soon realized that large-scale human rights monitoring could actively help pave the way to a negotiated settlement. As a result, ONUSAL's operations were launched in July 1991 while the conflict was still in progress.

The San José Agreement created an important precedent by stipulating that ONUSAL be allowed unhindered access to any person or location in the country without prior notice. Its mandate thus extended to all areas, including conflict zones where, for four years, UNHCR had been providing protection and assistance to voluntary returnees from Honduras in extremely difficult – and at times dangerous – circumstances.

The size of the ONUSAL operation, as well as the external political support and media attention it received, allowed it a breadth of coverage that UNHCR and the ICRC had struggled for years to obtain. Its presence had a significant restraining effect on combatants, and helped foster a climate of security and confidence which facilitated negotiations. It also helped to reduce the level of violence directed against non-combatants.

When peace was established on a provisional basis in early 1992, ONUSAL's mandate was expanded by the Security Council to include military, police and political divisions. It is scheduled to continue its operations in El Salvador until it has verified the presidential elections due in March 1994.

Despite the effectiveness of its human rights activities, ONUSAL has faced a number of problems and constraints. It still has much work to do to strengthen and improve vital national institutions such as the judiciary and the police; and there have been delays in implementing some of the institutional and economic reforms foreseen in the peace accords. However, no serious outbreaks of hostilities have occurred for a year and a half, and – despite the scars of the past – El Salvador appears to be continuing its progress towards national reconciliation.

Box 7.5 Tajikistan: An Integrated Approach

Following the break-up of the USSR in 1991, the five Central Asian countries (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) faced a vacuum of authority and, in some respects, of identity. The ethnic diversity of these newly independent states was accentuated under Soviet rule, in part by the questionable way in which their borders were redrawn in the 1930s and in part because of arrival of ethnic groups from other Soviet Republics (see Box 7.1).

The current displacement in Central Asia dates back to before the break-up of the Soviet Union. In 1989, over 100,000 Meshketi Turks were uprooted from Uzbekistan to the Russian Federation and Azerbaijan. In June of the following year, escalating tensions led to killings in the Osh Valley of Kyrgyzstan, causing thousands of Uzbeks to flee the area.

The most conspicuous example of regional instability, however, has been in Tajikistan, a country of some 5.4 million people, of whom only 62 per cent are ethnic Tajiks. Since June 1992, a civil war has pitted former communist leaders against a coalition of self-declared parliamentary democrats and Islamic radicals. By June 1993, opposition forces had lost the initiative but fighting continued in parts of the country and insecurity was still rife in many areas.

As many as 30,000 Tajiks are thought to have been killed in the war. Up to half a million were driven from their homes, some 356,000 of them in the southern part of the country including 60,000 refugees who poured into northern Afghanistan in December 1992. To the north, smaller numbers of refugees have also fled to Kyrgyzstan and Kazakhstan.

The conflict in Tajikistan has been viewed with acute anxiety by neighbouring states. Given the convoluted ethnic composition of the region – there are some four million Tajiks in Afghanistan, 800,000 in Uzbekistan and 20,000 in the Xinjiang region of north-western China – they fear that an influx of refugees could spark off ethnic conflicts within their own borders. The problems of Central Asia in general and of Tajikistan in particular have raised the urgent question of how regional and UN initiatives can best prevent, contain and, where necessary, reverse explosive situations which if left to fester may lead to conflagrations similar to those raging in Azerbaijan and Bosnia and Herzegovina.

The presidents of the Central Asian States and the Russian Foreign Minister, meeting in Alma Ata on 2 November 1992, laid the basis of a regional approach to the crisis. They agreed to work towards the re-establishment of legitimate government in Tajikistan and entrusted a peace-keeping function to CIS troops. This consensus provided a foundation upon which the UN could, in turn, bring to bear a co-ordinated approach, combining peace-keeping and peace-making efforts with the humanitarian relief provided by UNHCR and the ICRC.

In early 1993, after months of intensive diplomatic activity, the main actors in the Tajikistan conflict began to implement the measures necessary for the return of refugees and internally displaced people. One of the most difficult problems was the hostility of local populations towards returnees. On 18 March 1993, internally displaced Tajiks began returning to their war-ravaged province in southern Tajikistan, after receiving assurances that they would be

well received. But at least 15 of them perished from exposure and hunger when, for seven long days, the local inhabitants blocked them from entering their home town of Kabadian. Only after intensive negotiations involving the UN Department of Political Affairs, ICRC and UNHCR were they at last allowed back into the town. The UN presence has played an important role in progressively allaying such hostile attitudes. By June 1993, 240,000 internally displaced people had returned to their home regions. The repatriation of refugees from Afghanistan had also begun, with the first convoy returning on 22 May.

Despite these successes in organizing the return of those displaced by the war, memories of the human rights abuses that have been perpetrated by both sides will not vanish overnight. Addressing the root causes of problems which are compounded by the traditional clan alignments and rivalries so rife in Central Asia will be a long-term undertaking. If peace is to be fully restored, continued mediation and monitoring will be necessary along with substantial rehabilitation and development aid.

Tajikistan has emerged as something of a test case. Failure to stop the conflict, or to consolidate the peace process, could have dire consequences for the entire region.

Box 7.6 Open Relief Centres in Sri Lanka

Since independence in 1948, Sri Lanka has been plagued by escalating violence between the majority Sinhalese community and the Tamils, who make up 25 per cent of the population. By the mid-1980s, political violence and the increasing polarization of the two communities had led to full-scale civil war in the north and east of the country.

After bloody massacres by government troops in the north in 1983, the exodus of Tamil refugees leaving Sri Lanka grew to a flood. By 1992, the numbers worldwide had risen to half a million, with 200,000 asylum-seekers in Europe and 230,000 across the Palk Strait in the Tamil-populated regions of southern India.

UNHCR established a presence in Sri Lanka in 1987 to provide assistance to returnees following an agreement between India and Sri Lanka that many hoped would bring an end to the conflict. But the fighting continued and indeed escalated. In 1990, an upsurge of internal displacement, fuelled a new exodus of asylum-seekers. In an effort both to help returnees affected by the fighting and to mitigate the immediate causes of departure, UNHCR set up two Open Relief Centres (ORCs) in Mannar district, the main point of departure from Sri Lanka to India.

One of these is at Pesalai, a fishing village on the northern coast of government-controlled Mannar Island. The other is on the mainland at Madhu shrine, a traditional Catholic sanctuary in the heart of dense forest, located at a junction of jungle tracks leading to the coast in an area largely dominated by insurgent forces.

The ORCs are not, properly speaking, safe havens – indeed, earlier efforts to establish a safe haven had to be abandoned for lack of agreement on a demilitarized zone. Instead, they are temporary sanctuaries where displaced people can obtain essential relief assistance in a relatively safe environment, pending stabilization of conditions in their home area. Through them, UNHCR staff are able to monitor the situation and help shield the civilian population from some of the consequences of conflict. Perhaps as a result, during the period of conflict in 1990, there were no large-scale atrocities in the area where the ORCs are located, in stark contrast to the eastern districts where UNHCR was not present.

The ORCs were supplemented by decentralized sub-centres that helped provide a measure of safety even in remote areas, as well as a network for the distribution of relief. As a result of these arrangements, many of those in danger of displacement felt able to remain at or near their homes and continue their livelihoods.

The ORC network responded to different degrees of displacement, allowing people an element of choice. In a volatile situation of military offensive and withdrawal, people could

leave and return to their homes with relative ease and speed. Following the establishment of the centres, the outflow to southern India was reduced from 100,000 during the initial disturbances of June and July 1990 to a trickle in later months despite the continuing violence. As one Tamil commented, "We came to Madhu so that we could go to India from here. But then we heard that UNHCR had plans to establish a camp. We decided to remain here because we felt this camp gave us protection from the army attacks and aerial bombing that forced us to leave our homes."⁷

¹ Helsinki Watch, *Yugoslavia: Human rights abuses in Kosovo 1990-1992*. New York: Helsinki Watch, October 1992.

² *The Human Development Report 1992*. New York: United Nations Development Programme, 1992.

³ See Francis Deng, *Protecting the Internally Displaced: A Challenge for the United Nations*. Report by the Special Representative of the Secretary-General on Internally Displaced Persons to the UN Commission on Human Rights, 1993.

⁴ Council of Europe, Report on population movements between the republics of the former USSR. January 1993.

⁵ Immigration and Refugee Board Documentation Centre, Ottawa, Canada, "USSR Country Profile." October 1991.

⁶ The Russian Federation acceded to the 1951 Convention and the 1967 Protocol on 2 February 1993 and, on 19 February 1993, promulgated a Law on Refugees and Displaced Persons. Azerbaijan acceded to both the 1951 Convention and the 1967 Protocol on 12 February 1993.

⁷ Court Robinson, *Sri Lanka: Island of Refugees*. US Committee for Refugees: Washington, 1991.