

A Selected Master Thesis

Internally Displaced Persons in International Politics: A Suggestion for Providing Protection and Assistance

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Introduction

One of the most distressing phenomena in the post-cold war era is the substantial growth of people displaced within their homelands, otherwise known as Internally Displaced Persons or IDPs. The increase in the number of IDPs shows that many conflicts occurred even after the two greatest rivals stopped the confrontation in the end of the 1990's. There are at least two aspects on problems of IDPs. First, it is a humanitarian disaster, which requires an immediate and effective response by the international community. IDPs face severe deprivation of

fundamental human rights. However, the international community cannot always provide the necessary protection and assistance. Its responses are only ad hoc and no one is particularly responsible in giving protection and assistance to IDPs, which is one of the gravest flaws in the international community.¹

This paper will argue that establishing a more effective institutional arrangement to give protection and assistance to IDPs must be promoted by actors such as the UN, humanitarian aid agencies, and states. First, the present state of IDP issues in the international community indicate that responses of it is inadequate when application of current international laws, protection and assistance activities by international aid agencies, and conservative interpretation of the state sovereignty are considered. Second, international politics surrounding IDPs demonstrates that the UN feels trapped by a variety of interests of states, and IDP producing countries as well as donor countries for international agencies are reluctant to give protection and assistance to IDPs for different reasons. However, the fundamental human rights of IDPs need to be protected for humanitarian reasons and issues on human rights are an integral part of an international public order. In the current conditions, the best way to give protection and assistance is to make the maximum use of agencies working for IDPs and coordinate them well so that they can achieve effective cooperation in giving protection and assistance to IDPs.

Part I: Present state of IDP issues in the international community

I-1: Applicability of current international laws

Protection of human rights of IDPs under the current international laws are very limited because current international laws cannot always cover the necessities of IDPs. IDP situations in the former Yugoslavia and Sudan show that international laws are not enforced in practice. Provisions stipulated in international laws indicate that they could provide foundation for giving protection and assistance to IDPs. However, that is not the case because there are limitations and derogations when they are applied in actual IDP situations. Application of international laws to

protect human rights of IDPs is at the hands of state authorities or de facto authorities and it is often arbitrary or simply non-existent. Therefore, it is necessary to establish a new norm to provide foundations to give protection and assistance to IDPs.

IDP situations in the former Yugoslavia and the Sudan

IDPs often live in harsh conditions and face a lot of difficulties. It is important to understand their living conditions when the application of current international laws are considered. A few situations where mass displacement of the population took place will be described in this chapter. Sources of descriptions of the following situations are Masses in flight (Cohen and Deng) in the former Yugoslavia and the World Refugee Survey (USCR) for Sudan.

The former Yugoslavia

In the former Yugoslavia, in response to the declaration of independence in Croatia and Slovenia, the central authorities in Belgrade attempted to maintain the territorial and political status quo and protect the ethnic Serbs starting conflict in 1991. Ethnic cleansing, which expelled rival ethnic groups to create ethnically pure communities, was a dismal feature in the wars in the former Yugoslavia. Serb nationalists in both Croatia and Bosnia tried creating ethnically homogeneous Serb communities in ethnically mixed areas. Both the Croats and Muslims engaged in ethnic cleansing as well. Ethnic cleansing and fierce battles throughout the country produced many IDPs in the former Yugoslavia. There were constantly more than one million IDPs in Bosnia and about 200,000 to 300,000 in Croatia through 1993 to 1995. There were not only IDPs but also refugees and war victims in the former Yugoslav republics. Once displacement occurred, some of them fled to the UN-protected safe areas in Bosnia. However, they found their food and medicine shipments cordoned and their members were targeted for direct attack.

Sudan

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Possibilities of the international legal documents for IDPs

Many international legal instruments including international human rights laws and international humanitarian laws contain clauses that could give protection and assistance to IDPs. However, these international laws are applied situation by situation. Therefore, it is necessary to see which international laws are applied in which situations. We can assume three situations in which IDPs are involved.²

First, they are disturbed and strained situations, which “fall short of armed conflict but involve the use of force, including repressive measures by government agents to maintain or restore public order.”³ In these situations, international human rights laws can be applied. For instance, rights to the freedom of movement and residence are stipulated in article 13 of the Universal Declaration of Human Rights (UDHR) and in article 12 of the International Convention on the Civil and Political Rights (ICCPR). Article 55 and 56 of the UN Charter state that a member state of the UN takes actions to promote basic human rights. If a state has ratified one or more of the universal and/or regional human rights treaties such as the 1966 Covenants on Economic, Social, and Cultural Rights (CESCR) or the Civil and Political Rights (CCPR), that state is obliged to fulfill its obligations.

Second, they are situations of non-international armed conflicts in which international humanitarian laws can be applied. Application of international humanitarian laws is extensive. Contrary to international human rights laws, which are binding to only states and their agents, international humanitarian laws are binding to rebel groups to a certain extent. International instruments, which are always referred for protecting civilians, are article 3 of the 1949 Geneva Convention (3GC) and the 1977 Protocol Additional to the Geneva Conventions of 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). Both international legal instruments claim that victims of non-international armed conflicts and non-combatants be treated reasonably and protected.

Third, they are situations of interstate armed conflict in which various international laws can be applied, in principle. However, the most relevant international legal documents for protecting civilians including IDPs are provided in part II of the Fourth Geneva Convention. For example, article 13 of the convention states that it covers “the whole of the populations of the countries in conflict”, which indicates the wide applicability of the Convention. Other provisions prescribe on the followings: for hospital and safety zones and localities (article 14), neutralized zones (article 15), the protection of the wounded, sick, infirm, and expectant mothers, including provisions concerning hospitals and transports (article 16, 18-22), the “endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons”(article 17), child welfare (article 24), the exchange of family news (article 25).

Limitation of the legal documents for IDPs

However, as shown above, international laws do not always give protection and assistance to IDPs. A German analyst Nils Geissler summarizes deficiencies in international laws. According to him, regarding treaty-based human rights law, problems take place “if [s]tates have not ratified the relevant treaties or, if they are party to the treaty regimes, have invoked limitation clauses or derogated from certain guarantees in times of public emergencies.”⁴ In addition, the lack of an efficient implementing machinery is another problematic aspect of international laws. Geissler also mentions specific aspects which protection under current international laws is inadequate. First, matters such as internment in closed camps, hostage taking, or forced conscription violate IDPs’ right to personal liberty. Protection against infringements of IDPs’ personal liberty is difficult because its limitation is generally accepted provided that it is not arbitrary or unlawful and it can be derogated from in times of public emergencies. Furthermore, 3GC does not contain rules on the deprivation of the right to personal liberty of non-combatants. Second, freedom of movement and related rights are violated by the brutal practice as “ethnic cleansing.” For an IDP, a right not to be displaced is crucial, which is not explicitly

contained in any binding human rights document. It derives from norms which protect freedom of movement. However, there is no absolute protection of the right to freedom of movement in human rights laws given the possible limitations and derogations. During non-international armed conflict, the common article 3GC does not protect freedom of movement at all, and article 17 of the Protocol II only grants protection from arbitrary displacement. The right to return to the former home or place of habitual residence is also important for an IDP. It also derives from norms relating to freedom of movement and recent state practices and resolutions of the UN Security Council that support its existence. According to Geissler, it is a constantly developing *opinion iuris*. Finally, other civil and political rights such as the right to personal documentation and the right to family reunion are not protected adequately.

A need for a comprehensive strategy

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I-2: Protection and assistance to IDPs

This section will examine current operations for IDPs by the international aid agencies. Most of the organizations do not have definite mandates to give assistance and protection to IDPs. Thus, they are working in an ad hoc manner for IDPs. Since the magnitude of the IDP problems overtakes capacity of each existing international organization, their improved coordination is essential. Despite their remarkable efforts to give protection and assistance to IDPs, their work is inefficient because their efforts are not well-coordinated. First, international agencies currently working for IDPs are introduced and discussed: it is important to know who are involved in giving protection and assistance to IDPs. Second, examples of inefficient coordination and cooperation among international aid agencies working for IDPs are shown.

International agencies and mechanisms working for IDP issues

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Cooperation among international agencies at the field level

There are seven international agencies working for IDP issues and two UN mechanisms strongly related to IDPs. For international agencies, each has its own expertise in specific areas. They are contributing to the current scheme of protection and assistance to IDPs. The seven agencies are: the UN High Commissioner for Refugees (UNHCR), the UN Development Programme (UNDP), the UN Children's Fund (UNICEF), the World Food Programme (WFP), the World Health Organization (WHO), the International Committee for Red Cross or (ICRC), and the International Organization for Migration or (IOM). They need to have efficient coordination in order to have more effectiveness. Ineffectual coordination among these international agencies makes it difficult to mitigate the plights of IDPs. Overlaps and ambiguities in operations of each existing international agency working for IDPs lead to turf struggles. Turf struggles and ineffective cooperation among international agencies working for IDPs are two of the most problematic phenomena in the field.

Turf struggles occur because each organization seeks to maximize its power, which can be commensurable with the size of budget and number of personnel. As the cases of cooperation among international agencies working for IDPs increase since the magnitude of this problem surpasses the capacity of an individual agency, the possibility of struggle over their jurisdiction rises. However, cooperation among international agencies is ineffectively coordinated and their expertise is not fully utilized for mitigating the suffering of IDPs.

Turf struggle among international agencies

Most organizations define the central goal of 'health' as synonymous with 'autonomy'. They therefore seek growth in their budget, personnel, and appealing new territory. Thus issues that arise in areas where boundaries are ambiguous and changing, or issues that constitute profitable new territories, are dominated by colonizing

activity.⁵

(Graham Allison and Philip Zelikow, *Essence of Decision*)

As discussed above, plights of IDPs are one of the most appalling aspects of international life in our era. The international community can provide 21 million IDPs with little aid under the current defective ad hoc system. The international aid agencies struggle with one another over jurisdiction. They seek to maximize their share of activities as the capacity of each organization allows. Cohen argues that turf struggles among international agencies inhibit help for IDPs. She mentions the enlargement of the role of the UNHCR regarding IDPs. She states “no organization wants any other to have a global mandate to protect the displaced.”⁶

It is conceivable that micro level politics in the field or the administration of a humanitarian agency working for IDPs affect their behaviors. As Allison and Zelikow write, most organizations seek to maximize their share of activities to ensure their survival. If an organization is created to perform certain designated tasks, it implements its jobs utilizing its maximum capacity. However, if more than two organizations, which have similar tasks, perform their jobs, they would have to compete with each other. They must compete for power, which is translated into budget and personnel.

Allison and Zelikow illustrate such a turf war between two sections of the DHA. The Department of Humanitarian Affairs was assisting the Emergency Relief Coordinator. However, DHA's headquarters in New York and its task force in Geneva were known to have bureaucratic rivalries. They were at odds. Senior staff in New York “questioned the task force's authority” to take care of humanitarian situations alleging it lacked operational capacity, regarded the problem of displacement too narrowly, and undercut and complicated the DHA's initiatives. Due to the rivalry between the two bureaucratic elements of the organization, New York had the situation in a particular country withdrawn from the agenda of the Geneva task force.⁷ In another case, according to UNHCR's operational experience with internally displaced persons, one of the reasons most frequently invoked against the UNHCR getting involved is when “[o]thers are doing the job.”⁸ The UNHCR argues

that when other agencies provide adequate coverage of needs, there is no justification for the UNHCR to claim on a primary role, even if there is a strong link with a refugee situation, which the UNHCR usually deems necessary to involve in. This is nothing but an expression of UNHCR's admittance of a "legitimate turf" of other agency. For example, when a subsequent general peace agreement was signed, after the civil war was over in Mozambique in October 1992, several UN agencies, especially the WFP, the UNDP, the UNICEF, and the UNDRO, and NGOs started giving protection and assistance to IDPs in the country. However, the UNHCR played only a minor role in giving assistance and no role in giving protection to IDPs even though it was related to its coordinating repatriating refugees from neighboring countries to Mozambique.

Co-operation

International agencies dealing with IDP issues cooperate with each other to complement their own areas of expertise. Cooperation among international agencies is indispensable because none of the international agencies working for IDPs can approach all IDP problems. In this sense, for international agencies, cooperation is a sort of compromise because they have no alternative to help IDP situations. Research on cooperation among international agencies shows that each organization has a strong sense of self-assertiveness. Self-assertiveness, in this context, means the tendency of an organization to work to maximize its power as articulated by Allison and Zelikow previously. Each organization attempts to monopolize its share of an activity when an area of expertise overlaps with the other. However, self-assertiveness, which is usually necessary to be responsible for an organization's activity, for example, the WHO for health care, works defectively in responding to IDP situations because of the poor coordination among international agencies. Defective aspects of self-assertiveness among international agencies are evident in ineffective cooperation in IDP situations all over the world. Poor coordination prevents them from having effective cooperation in responding to the plight of IDPs.

In, UNHCR's operational experience with internally displaced persons, 20

recent cases of the UNHCR's field experiences with IDPs are described. In 13 cases out of 20, the UNHCR mentions some form of cooperation among international organizations. First of all, let us consider how international agencies cooperate in responding to IDP crises from the UNHCR's document.

The UNHCR's descriptions on IDP related operational experiences are divided into three categories.⁹ First, in situation A, the conflict and refugee emergency period, five cases are described based on operations in Afghanistan, Azerbaijan, the former Yugoslavia, Liberia, and Rwanda. Second, in situation B, the conflict and return of refugees/displaced period, four cases are described based on operations in Angola, Georgia, Somalia, and Tajikistan. Third, in situation C, the post-conflict/reconciliation period, four cases are described based on operations in Cyprus, Ethiopia, Iraq, and Mozambique.

There are some common forms of cooperation among international agencies in the previously mentioned 13 cases. First, the UNHCR was designated as the lead agency in Afghanistan, former Yugoslavia, Tajikistan, and Cyprus. Second, the UNHCR undertook relief activities with other international agencies, as in Afghanistan, Liberia, Rwanda, Georgia, Somalia, and Tajikistan. Third, the UNHCR made an appeal for parties of the conflict as in Azerbaijan, Former Yugoslavia, Angola, and Georgia. Other than these cooperative activities, the document noted UNDP coordination of relief activities, cooperation with NGOs, and peace keeping forces.

Analysis

It is difficult to judge whether the UNHCR's 13 cases of cooperation with other international agencies were ineffective due to poor coordination because there is no standard of cooperation since IDP situations vary case by case. However, flaws in current ways of cooperation were reported, which the organization was also involved. In Rwanda, several times UN agencies undercut initiatives of the special representative, who was appointed by the UN Secretary-General, by rushing ahead with aid deliveries without referring to the overall political and human rights objectives being pursued.¹⁰ In Liberia, the special representative opposed

cross-border feeding operation to assist IDPs because such operations would have had to take place in rebel controlled areas and might have undermined the peace process.¹¹ Thus, it is clear that unless cooperation among international agencies is well-coordinated, unnecessary friction among international agencies could exacerbate the quality of humanitarian assistance to IDPs.

“The international relief network is overstretched, all too frequently unable to meet the mounting demands placed upon it and constantly concerned about the availability of resources. The network is faced with a growing number of situations for which there is a limited degree of previous experience.”¹²

(Randolph Kent, the UN Resident and Humanitarian Coordinator, the UNDP Resident Representative and Designated Official for Somalia)

Kent's words show the complexity of humanitarian crises. The situation of humanitarian assistance for IDPs is exacerbated by the poor coordination present in the UN system. Despite the existence of the Emergency Relief Coordinator (ERC) and the two Committees chaired by the coordinator, there is no “effective” central point that can assign responsibility in situations of internal displacement.¹³ The IASC's task force, which was authorized by the IASC for reviewing all serious situations of internal displacement and recommending the best division of labor among the UN agencies, could make no recommendations about specific situations in which the UN could have been more involved. Thus, there was no reference in such serious situations as Sierra Leone and the Great Lake region.¹⁴ In addition, resident and humanitarian coordinators in the operational field have been often unable to coordinate activities on behalf of IDPs in an effective manner. “Everybody agrees to coordinate but nobody wants to be coordinated.”¹⁵

The question is how can we raise the quality of assistance to IDPs? Turf struggles among international agencies and the self-assertiveness of each international agency leads to ineffective cooperation, demonstrating that

international agencies currently working for IDPs need efficient coordination to become more effective.

I-3: State sovereignty

The chapter will examine the difference between the view that emphasized on the absolute character of the state sovereignty, traditional views, and the view that put stress also on protection of human rights, contemporary views, and argue that the former is not acceptable. Finally, the concept of humanitarian assistance will be considered since it could secure access to an IDP population while admitting relevant authority of the state sovereignty.

Traditional views on the state sovereignty

Traditional views on state sovereignty do not allow interference in the domestic matters of a sovereign state by a third party. Being sovereign signifies that one has absolute authority in making a decision on domestic matters. Domestic matters include protection of human rights of the people the sovereign state governs. Therefore, even if severe human rights violations occur in a certain state, no one is in a position to intervene to stop atrocities, and under this principle of non-interference, sovereign states can persecute their own citizens without worry being interfered with by another state authority.

Today, one of the most significant international laws is the Charter of the United Nations. Article 2(7) in chapter I of the UN Charter stipulates that “[n]othing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter...” Reading this statement, we can assume that no one is able to intervene in domestic matters of a sovereign state. Governments are responsible for their citizens and must protect their rights as domain of their conduct. Governments of sovereign states are duly expected to treat their citizens with proper care.

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Contemporary views on state sovereignty

Contrary to traditional views on state sovereignty, contemporary views enable limitation on the authority of state sovereignty in relation to the protection of human rights. If severe human rights violations are committed in a sovereign state, another authority can intervene to stop atrocities. In this sense, claim traditional views, the absolute character of state sovereignty is no longer valid. Today, human rights issues are an integral part of the international public order. If an actor disturbs the order, the international community should intervene to restore the order.

The latter half of article 2(7) of the chapter I of the UN Charter stipulates that "...this principle shall not prejudice the application of enforcement measures under Chapter VII." Seemingly contradicting elements in the former and the latter parts of this article implies that application of the article rests on political consideration or appropriate interpretation. In this sense, the principle of non-intervention, which is enshrined in the article 2(7), is not a rigid concept.¹⁶

Today, more and more writers on political science and international law tend to support views that enable the limitation of state sovereignty. This is true in the field of human rights. Akihiko Tanaka, Professor at the Institute of Oriental Culture at the University of Tokyo, argues that in the latter half of the twentieth century, especially in the 1990's, both respect for human rights and the principle of non-intervention have developed. However, exceptions of the latter enlarged in relation to the protection of the former.¹⁷ In addition, as the next quotation claims, issues on human rights have become a grave concern to the international community.

"If a state does not prohibit a system of conduct, which explicitly violates human rights and fundamental freedom, or implements a policy which is against realization of them, it is considered to be violating obligations under the UN Charter as a member state."¹⁸

(Kunihiko Tatsuzawa, Professor of International Law at Ritsumeikan University)

Moreover, Yasuhiko Saito, Professor at the Tokyo University of Foreign Studies, claims that there is no room for doubt that issues on human rights protection under the UN Charter are no longer “matters which are essentially within the domestic jurisdiction” of a state but are in fact under the authority of international laws. That is, for the members of the UN, “human rights and fundamental freedom are, in short, within the jurisdiction of international laws”.¹⁹

In reality, the international community had long and intense discussions before issues on human rights became due concern for it. As early as the 1950's, a discussion on human rights was brought to the UN.

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State sovereignty for IDPs and the concept of humanitarian relief

State sovereignty should be limited when the sovereign authority commits severe human rights violation on its own citizens. Many scholars come to terms that state sovereignty should be constrained when a state authority is not capable or unwilling to protect human rights of the people under its rule. The international community has a right to intervene in a state where severe human rights violations occur. Then the question lies on what kind of involvement by the international community should be considered? For this question, some authors suggest the useful concept of humanitarian relief, which can illustrate the extent of limitation on sovereign power while admitting the relevant authority of it.

One of the principal authors who supports contemporary views on sovereignty is a Sudanese diplomat Francis Deng, who served as a Special Representative of the UN Secretary-General on IDPs. He claimed in his book, *Sovereignty as Responsibility: Conflict Management in Africa*, that sovereignty carries with it responsibility for the people it governs. He contends that:

“[h]umanitarian concerns have taken precedence over state imperatives, and governments are perceived as endangering their sovereignty by refusing to meet the humanitarian needs of their population.”²⁰

Deng goes on to claim that when a state is incapable of or unwilling to protect the human rights of the people it governs, the international community should involve itself on behalf of the people under the irresponsible government. In this sense, state sovereignty is conditional. For such a view on the sovereignty, Elizabeth Ruddick, Director of the Strategic Research and Review Citizenship and Immigration Canada, maintains its moral rather than legal quality and points out the danger that a state's affairs could be frequently intervened in by other states on the basis that the concerned state's unwillingness to carry out its obligation on the people it governs.²¹ However, she admits its persuasive character in facilitating such actions such as those under the UN Charter chapter VII on the basis of internal humanitarian crises.

The international community shares the idea that human rights are an integral part of the international public order, and thus governments, which are not incapable or unwilling to protect human rights of the people they govern, could be intervened by the international community. However, there is no consensus on what extent the international community could intervene in a state where severe human rights violations break out. What Ruddick maintains above represents the still fluid nature of this problem. However, when we justify an intervention by the international community on behalf of the IDPs, it is important that their needs are satisfied and relations with the authority in a concerned state is maintained. In this sense, justifying so-called humanitarian intervention in a legal sense is pre-mature but the concept of humanitarian relief should be considered seriously.

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When IDPs are produced, it is needless to say that provision of emergency supply is critical. The concept of humanitarian relief could establish grounds for humanitarian assistance through humanitarian agencies or NGOs providing emergency supplies to IDPs. Certainly, it is still hasty to claim the existence of “the right to humanitarian assistance” as a legal norm. However, it is worth considering

the possibilities because it is the most practical concept to give protection and assistance to IDPs at this moment. This chapter investigates the concept of the humanitarian relief. Descriptions and arguments on “the right to humanitarian assistance” mostly are based on the paper by Maki Nishiumi, Professor at Chuo University.²² Activities under “the right to humanitarian assistance” include provision of food, medicine, and other necessities. Two resolutions in the UN General Assembly confirmed that victims of natural disasters and similar situations be helped, and emphasized the importance of the roles of non-governmental organizations, which act neutrally and impartially in emergency situations.²³ To exercise “the right” to humanitarian relief, parties involved such as humanitarian agencies, NGOs, and states have to adhere to two principles, which are stipulated in the two resolutions. First is the principle of free access to the victims, which does not question the reasons victims are produced and requires a request or consent from the concerned states. This principle implies that sovereignty of the concerned states could be limited to a certain degree. Second is the principle of complement, which respects sovereignty of the states where there are victims. This principle provides that the concerned states should be primarily responsible for the onset, organization, coordination, and implementation of humanitarian relief and, if those states which cannot or do not take such roles, then, humanitarian organizations and other authorities should step in.²⁴ It is clear that by stressing these two principles, the UN balances the protection of human rights of the people in need of international assistance, and the sovereignty of states with such people. Therefore, activities under “the right to humanitarian assistance” could be much more acceptable for governments with IDPs because “the right” is “an activity to provide food, medicine, and other necessities to displaced persons, who face danger of death, under the principle of neutrality and nondiscrimination” and is “not an intervention and does not have a coercive aspect of an intervention.”²⁵

The core aspect of “the right to humanitarian assistance” rests on the first principle that a request or consent from concerned states is not necessary to provide humanitarian assistance to the affected population. Although such a principle has been confirmed in the Nicaraguan case by decision of the International Court of

Justice (ICJ) and the Geneva conventions, extending such a principle to all of the IDP situations is still in the process of being established as an international legal norm.

Nishumi concludes his paper indicating two points required for the realization of such a norm. First, the subjects who enjoy “the right”, and those who are obliged to realize them have to be clarified. It is no doubt that those who are in need of international assistance are the subjects enjoying the right. However, legal statuses of private humanitarian organizations, intergovernmental organizations, countries concerned, and other countries are still unclear. For instance, countries with affected population should have an obligation to secure free access to the victims and an obligation to implement relief to victims based on the principle of complement, and, at the same time, the same countries should have a right to seek a request for the assistance of other countries or private humanitarian organizations. Unless who is obliged to implement duties and who have which rights are not determined, it is difficult for the international community to admit “the right to humanitarian assistance” as a universal legal norm. Second, fears of the countries in relation to their sovereign rights have to be removed. Still many countries have concerns that their sovereignty rights are constrained by the outside intervention under the concept of humanitarian relief. Unless “the right to humanitarian assistance” is prioritized over the sovereign prerogative in the traditional sense, there can be no climbing of “the right to humanitarian assistance”.

It is true that there are many problems on the claim regarding “the right to humanitarian assistance”. However, at this moment in time, it is the most realistic way to realize protection and assistance for IDPs. In fact, relief corridor, which was proposed by the government of France and based on the two principles and was provided in the second resolution at the UN General Assembly, was materialized in Iraq, Bosnia and Herzegovina, and Somalia. These facts prove that at least the concept of “the right to humanitarian assistance” is a viable idea. Therefore, particularly, in accordance with the Chapter VII, the concept of humanitarian relief is a cornerstone to devise ways to give protection and assistance to IDPs, and the international community should help develop it.

Part II: International Politics surrounding IDPs

II-1: A UN approach to issues on IDPs

Among the international organizations which handle issues on IDPs, the UNHCR is a prime example. As a refugee body of the UN system, the UNHCR deals with approximately four million IDPs, which comprise 18.3% of the total number of the people of its concern.²⁶ Its awkward position on issues regarding IDPs illustrates the limits that international humanitarian organizations have to face when giving protection and assistance to IDPs.

The UNHCR deals with only a portion of IDPs all over the world. The issue the UNHCR presently faces is whether it can extend its competence to the other IDP related situations. Despite the repeated calls for more involvement in IDP issues by the UN General Assembly²⁷, Secretary-General, and a donor country,²⁸ the UNHCR has declined while showing its interest in involvement in certain IDP situations. The UNHCR shows its ambivalence to respond to IDP crises. Functionally, it has ample potential capability to respond to more IDP situations. However, what limits its more active responses to IDP situations is the UNHCR's organizational constraints and concerns that more involvement on IDP issues would cause.

Decision making Structure of the UNHCR

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Strength of the UNHCR

The strength of the UNHCR to deal with IDP crises rests on two points. First, it has functional capability to deal with IDPs since only the UNHCR has been mandated as a refugee organization, which gives protection and assistance for refugees, under the 1951 Refugee Convention and the 1967 Protocol of which 137 states are party to one or both.

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The second point of strength of the UNHCR is that it has accumulated the knowledge, skill, and experience of working with IDPs. Since 1971, the UNHCR has been involved in some 30 IDP related operations and has undertaken extensive protection activities on behalf of IDPs.

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Capacity of the UNHCR

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The statute of UNHCR and its guidelines on IDPs

The statute of the UNHCR has been interpreted flexibly to include some IDPs in its jurisdiction even though the original mandate of the organization does not refer to them. Flexible interpretation of the mandate has been necessary because the Office of the UNHCR has had to face challenging refugee problems, which were not foreseen when the UNHCR was established, in its activities in the last half century. Flexible interpretation was made possible based on support of the UN General Assembly, Secretary-General, and member states, which admitted activities of the UNHCR in their territories. Based on its guidelines on IDP issues, the UNHCR selects certain IDP situations to become involved in, but not the others. The nature of the guidelines and their applications on its activities clearly shows UNHCR's ambivalent position on IDPs. However, according to its statute, the work conducted by the Office of the UNHCR is of non-political character. While not directly referring to IDPs, the mandate states in Article 9, that, in addition to the work with refugees, the UNHCR may "engage in such activities... as the [UN] General Assembly may determine, within the limits of the resources placed at [its] disposal."²⁹ The gaps between the supposed non-political character of the organization and its politically featured guidelines on IDPs put the UNHCR in an awkward position. However, a series of resolutions of the UN General Assembly has acknowledged the humanitarian expertise of the UNHCR and encouraged its involvement in IDP crises. Especially, the UN General Assembly resolution 48/116 in 1993 spelled out criteria of particular importance to guide the UNHCR's decision on when to intervene on behalf

of IDPs. These resolutions and article 9 of the statute of the UNHCR constitute the legal basis for its interest in and action for IDPs.³⁰

In answering UNHCR's position vis-a-vis the internally displaced, it stated the organization has always had an "interest"³¹ in protection and welfare of IDPs as evidenced by its involvement in earlier IDP crises. The UNHCR has become involved in IDP related operations "only at the specific request of the Secretary-General or another appropriate U.N. authority and with the agreement of involved nations."³² It has been careful "not to compromise its own mandate covering refugees and to work within its limited financial and manpower resources."³³

The UNHCR's rationales for involvement in IDP situations and roles of the organization in operations involving IDPs were clarified in its guidelines on IDP issues. According to the position paper of the UNHCR on IDP: Internally Displaced Persons: The Role of the United Nations High Commissioner for Refugees, there are four phases to consider if the UNHCR should involve in certain IDP situation. These processes of the UNHCR's involvement in IDP crises stipulated in the guidelines tell why the organization has to take an awkward position. Let us consider how the guidelines work.

First, the UNHCR considers rationales for its involvement in IDP situations. It was increasingly asked to extend its services to the IDPs in the 1990's.³⁴ Rationales for UNHCR's involvement on IDP situations are when "the link between refugee problems and internal displacement is direct and clear" and "the relationship between refugees and the internally displaced is more complex".³⁵ Second, the UNHCR assesses the situation of internal displacement and considers if operational pre-requisites are met. These assessments and operation pre-requisites for UNHCR's involvement mostly coincide with concerns the UNHCR has shown, which will be discussed later. The UNHCR analyzes the risks and the opportunities as well as the possible impact of the proposed involvement.³⁶ Third, after these assessments of the prerequisites are considered, six requirements have to be met before the UNHCR becomes involved in a certain IDP situation. These six requirements are as follows: 1) a request or authorization from the Secretary-General or a competent principal organ of the UN, 2) consent of the state concerned, and where applicable,

other entities in a conflict, 3)access to the affected population, 4)adequate security for staff of the UNHCR and implementing partners, 5)clear lines of responsibilities and accountabilities with the ability to intervene directly on protection matters, 6)adequate resources and capacity. Based on these considerations above, the High Commissioner for Refugees (HRC) will decide if the Office of the UNHCR should involve in certain IDP situations. Finally, the Executive Committee or EXCOM, composed of governmental representatives, approves its decision.

The UNHCR takes an awkward position in considering the operational involvement. As a conference room paper drafted by the UNHCR's Division of International Protection stated UNHCR's activities on behalf of IDPs are both "conditional" and, in principle, discretionary under the limited mandate.³⁷ In this sense, the nature of the UNHCR's involvement in a certain IDP situation is influenced by various factors and is very political. Certainly, the UNHCR aims to mitigate the sufferings of displaced persons since it was established as a non-political humanitarian organization, however, in practice, it has to realistically select which IDP situations to involve because the refugee organization lacks formal mandate on IDPs and resources to spend for them. The guidelines on IDP operations of the UNHCR reflect the dilemma it has to confront.

Concerns of the UNHCR

The UNHCR has some concerns when considering involvement in IDP situations. The UNHCR involve itself in certain IDP situations but not in the others. These concerns include the UNHCR's donor dependency in its budget, the UNHCR's loss of grounds for its activities with refugees, possibility that the UNHCR would change its character and detract from its primary responsibility of protecting and assisting refugees, doubt regarding the impact on internally displaced or the extent to which UNHCR's involvement will actually improve the protection situation and solutions possibilities of the internally displaced and relevance of UNHCR's experience and expertise, and probability that institution of asylum is broken. These concerns made most observers of the Office of the UNHCR and the HCR pessimistic

when considering extension of its activities to include on IDPs.

First and foremost, the UNHCR must worry about its resources if it intends to extend its operation to more IDPs. However, in the current budgetary system, it is difficult to increase its financial resources. "A distinctive feature of UNHCR's budgetary process is its dependence on voluntary government and private, as opposed to assessed, contributions."³⁸ According to *The Global Appeal 2000*, the Office of UNHCR must raise 98 percent of its yearly financial requirements. Only 200 administrative posts, or only two percent of the UNHCR's total budget, are covered by regular budget of the UN.³⁹ However, actual contributions raised by the UNHCR usually do not meet the financial requirements.⁴⁰ In addition, Alex Cunliffe, a Principal Lecturer in the Department of Politics at the University of Plymouth, found that by 1989 donors became increasingly unwilling to contribute to unconditional funds.⁴¹ These budgetary aspects of the UNHCR show unreliability of the UNHCR's resource base, therefore difficulty of extending its activities.

The UNHCR's loss of grounds for its activities with refugees is a sensitive political concern it faces regarding the IDP related activities. As a multilateral organization, the UNHCR does not have land nor funds to provide for people of its concern including refugees and some IDPs. As guidelines require, it has to obtain consent from a government when it involves in a certain country. The UNHCR fears that its involvement would cause negative responses from governmental authorities. For example, in Sudan the needs of the IDPs are apparent since up to four million people were internally displaced, which is the largest number in Africa.⁴² However, the UNHCR chose not to involve itself in Sudan because of "[t]he need to avoid any possible negative reaction from the Sudanese Government."⁴³ This fact indicates that the humanitarian assistance and protection to the uprooted are regarded to be political act.

Possibility that the UNHCR would change its character and detract from its primary responsibility of protecting and assisting refugees is a problem. Considering the scale of the world IDP problems, the UNHCR could "become overstretched and far exceed its capabilities."⁴⁴

For example, in the former Yugoslavia, more than half of UNHCR's \$1.5 billion budget was spent on IDPs and war victims when the organization assumed responsibility on both categories of people.⁴⁵ Other concerns are related to the difficulty of UNHCR's operation in situations of internal conflict and the high risk to staff.

The UNHCR also concerns impact on internally displaced or the extent to which the UNHCR's involvement will actually improve the protection situation and solutions possibilities for the internally displaced and relevance of UNHCR's experience and expertise. Some observers and the UNHCR itself admit the UNHCR could apply its expertise to IDPs.⁴⁶ However, other expert on the international refugee law contends UNHCR's skills and expertise in the international protection of refugees cannot be "automatically transferred to the internally displaced."⁴⁷

A concern regarding the probability that the institution of asylum will break always exists, which by giving and assisting IDPs in their own countries the UNHCR puts itself in a position to discourage persons in danger from becoming refugees, and that its actions in that sense could offer governments "a pretext for refusal to grant asylum."⁴⁸ When we think of the budgetary situation of the former Yugoslavian case, we have to be careful not to conclude that major donor countries of the UNHCR, mostly West European countries (plus the US and Japan), were humane for the matters which happened in the European continent because it is "their matter."⁴⁹ We have to think about the reason why they paid a large amount of the bill for the Balkans. Cohen and Deng take the position that "[g]overnments reluctant to receive refugees also have used UNHCR's in-country protection activities as a pretext for refusing to grant asylum."⁵⁰ This reasoning sounds right when we think of the number of the asylum seekers in the Western Europe in the middle of the 1990's from the former Yugoslavia. There were about 700,000 applications seeking asylum in Western Europe in 1992. There were more than 1,200,000 refugees from Bosnia alone in Europe as of December 1996.⁵¹ Thus, it is conceivable that governments in Western Europe implicitly asked the UNHCR to protect IDPs and others of its concerns inside the former Yugoslavia.

Will of the High Commissioner for Refugees
omission

II-2: Responses of IDP producing countries: Sudan and Turkey

Governments of IDP producing countries are one of the key actors for determining international responses to IDP problems. Not all governments can fulfill their basic sovereign responsibilities to their citizens. Some governments invite international assistance, such as Mozambique⁵² and Angola.⁵³ Some may seek assistance for the international community but may receive little or none, such as Peru.⁵⁴ Some of the governmental authorities may be in total breakdown such as Somalia and Afghanistan.⁵⁵ Others may invoke sovereignty to prevent outside interference with their brutal treatment and displacement of their own citizens, such as Turkey, Sudan, and Burma.⁵⁶

Turkey and Sudan are interesting examples in understanding attitudes toward IDPs in their own lands and international involvement. To varying degrees, neither country welcomes international protection and assistance to IDPs. The Turkish government inflicts human rights violations on its Kurdish citizens in the southeastern part of the country in the course of the battles with the Kurdish independent guerrilla. It takes an unfavorable attitude toward the IDPs in their own land and does not accept international involvement on the issues. The Sudanese government takes a hostile attitude toward IDPs in their own land. It receives international involvement but, often, interferes with its activities.

Turkey

In Turkey, there has been an internal conflict between Kurdish guerrilla groups and the government. Many people choose to flee or are forced to flee from their places of origins. Turkish authorities claim that the number of displaced persons, or "evacuated persons" in Turkey was 336,000 at the end of 1999. However, the US Committee for Refugees estimates that the actual figures ranges from 400,000

to 1 million because the government figure included only those who were displaced as a result of village and hamlet evacuations.⁵⁷ Those who felt compelled to flee from other reasons for government's repressive policy are not counted in the official figure. The government of Turkey takes an unfavorable attitude toward IDP population and a very negative attitude toward international involvement on IDP issues in Turkey.

The government's attitude toward IDPs in Turkey is unfavorable because most of the IDPs are the Kurdish population, who live in the southeastern part of the country, and allege them as potential supporters for the Kurdish guerrillas. In 1993, a Turkish deputy of the People's Labor Party from Mardin, Mr. Ahmet Turk, reported about human rights violations in his country. His report illustrates the Turkish government's harsh treatment of the Kurdish people. He told an audience in Washington, DC, that, in the previous year alone, 300 villages were burned, 600 of them were evacuated, six sizable towns, Sinark, Cizre, Lice, Kulp, Hazro and Nusaybin were bombarded with German BRD tanks with shopping districts of these towns being set afire, and 640 Kurdish political activists, of which 46 of them are member of his party, were murdered under mysterious circumstances. In addition, as many as 4,000 civilians had been killed by special death squads sent to counterattack the Kurdish freedom fighters.⁵⁸ Human rights NGOs and international organizations concerned report the similar stories of oppression by the Turkish authority.⁵⁹

Turkish government's negative attitude toward international involvement does not allow international humanitarian organizations to have access to the IDP population in the country, and actively prevents observers and humanitarian aid workers from entering zones of displacement. Even the ICRC, which has a policy of confidentiality is not allowed to have an access to IDP population in Turkey.⁶⁰

Sudan

...omission

The two countries above are the most serious cases of internal displacement. In both countries, sovereign prerogatives are the absolute authority and imply that international involvement is not easy to realize.

II-3: reluctant donor states

While admitting its importance from humanitarian point of view, for political and financial reasons, donor countries are reluctant to deal directly with IDP issues. They think IDP problems are not in their vital interest, thus, do not want to get involved in. Moreover, probably most significantly, they fear that they could be required to have even more open policies on immigration and asylum than now. Since all of the West European countries, except Andorra and San Marino, are signatories of the 1951 refugee convention, they are bound by the provisions stipulated in that international treaty.⁶¹ If IDPs are formally treated by the international community, presumably by the UN, they would have to commit more resources financially and politically. However, they do not like this idea because they think their current levels of commitment for refugee and immigration issues, including IDPs, are nearing limits or already overstretched. They have contributed funds to the UNHCR and, most of them, opened their countries to refugee organizations to support the granting of asylum. Even implementing the obligations stipulated in the current refugee convention has been becoming a burden for most of the West European countries. They are becoming overwhelmed by the rapid increase of the number of asylum applications. In that context, shocked with the dramatic increase in the number of asylum cases from the end of 1980's through 1990's, West European governments took such measures as submission of asylum applications themselves and restricted reviews on asylum applications to curb the number of asylum applications. Donor countries have been alleged to support internal flight to avoid receiving asylum seekers in their territories, which could have negative impact on the institution of asylum.

Asylum seekers
omission.

Number of recent asylum applications

Western states are making systematic attempts to keep asylum seekers away from their borders; at the same time, such states are in practice surprisingly reluctant to deport those who have been resident for several years even if they have failed to secure asylum.⁶²

Adam Roberts, Professor of International Relations at Oxford University, argues that western liberal democracies are pursuing courses, liberal and conservative respectively, simultaneously as the quotation above represents. Democratic polities of Western Europe attract those who are persecuted and the wealth in the region lures those who seek economic opportunities. However, principles of democracy prevent the governments from forcibly deporting those who are already inside their countries. This is a consequence of large flows of immigrants in affluent western democracies. Issues of migration and asylum have been intertwined since asylum application skyrocketed in 1980's. The largest numbers of individual asylum applications are found primarily in more affluent regions in the world: Western Europe and North America. The low and declining recognition rates for asylum applications in industrialized states is evidence of large-scale abuse of the asylum system for those who wish to impose stricter immigration controls. According to this belief, the majority of asylum applications are "fraudulent, submitted by people who wish to migrate for economic reasons but who have no other means of gaining admission to those states."⁶³

According to researchers, in Europe, North America and Australia, asylum applications skyrocketed from 90,444 in 1983 to about 825,000 in 1992. In Europe, more than three million applications have been submitted since 1983.⁶⁴ In Western Europe, submission of asylum applications rose from under 170,000 in 1985 to more than 690,000 in 1992. However, the numbers have steadily declined since 1993, reaching about 250,000 in 1996. In North America, the number of asylum applications has generally been an upward trend: from 28,000 in 1985 to 173,000 in 1995.⁶⁵

As Keely and Russell point out, these increases of asylum applications

occurred when both Europe and North America were suffering sluggish economic growth, which began in the early 1980's. Unemployment rates in Europe ran around 10 percent and were forecasted to climb even higher. In the US, people feared unemployment rates rose sharply as a result of realizing the North American Free Trade Agreement or the NAFTA. Also, the US experienced "no growth in the labor force outside the public sector between 1990 and 1992."⁶⁶ In addition and probably more importantly, processing asylum is costly, estimated from \$8 billion to 10 billion a year for care for asylum applicants in industrial countries and adjudication of their claims.⁶⁷ These immense financial figures indicate that the bills for asylum adjudication in industrial countries are many times the amount that UN agencies spend on refugees combined."⁶⁸

Social and political unrest in West European countries

West European countries witnessed social and political unrest caused by unexpected numbers of immigrants who sought economic opportunities in wealthy West European countries. These immigrants from third world countries were received with warm welcome until worldwide economic slump came in the early 1970's. Some people in West European countries claimed that these economic immigrants took their jobs and abused the social welfare system supported by the taxes Europeans contributed. Symptoms of social and political unrest have been expressed as xenophobia as represented by such an ultra-nationalistic group as Neo-Nazis. Politicians are also obliged to take an anti-immigration and anti-illegitimate asylum stance. Germany had to amend the constitution to tighten legalization pertaining to asylum seekers and refugees. In Austria, popular support for the right wing Freedom Party made them responsible as part of a new coalition government. Fear, worry, and frustration towards immigrants, whether they were legal or illegal was expressed, and asylum seekers were attacked by such ultra-nationalists as the Neo-Nazis.⁶⁹ In another occasion, Neo-Nazis were suspected of carrying out an arson attack on a refugee hostel in the city of Ludwigshafen, in Western German.⁷⁰ Also Reuters reported results of a survey on immigration in Sweden, which has taken one

of the most generous asylum and refugee policies in Europe.⁷¹

Political disturbance is a reflection of social unrest because politicians always have to seek support from the general public, which tends to be easily swayed by public opinion. In Germany, tightening legalization pertaining to asylum and the rights of alien citizens had been one of the most controversial topics among ruling coalition parties, the Christian Democratic Party and CSU, and the Free Democratic Party. Then German Chancellor Kohl issued his warning to attempt to prevent the “misuse of asylum” in 1986.⁷² This debate eventually led to the amendment of the German constitution in 1993 to tighten the regulations of asylum. At the same time politicians in Germany were desperate trying to “dampen xenophobia, which was spreading among the populace and fueling neo-Nazi violence.”⁷³ However, in the beginning of the year 2000, when Joerg Haider's xenophobic Freedom Party was invited to form a coalition government in Austria since the Freedom Party won 27% of the vote in the general elections, Europeans could not hide their discontent and disturbed feelings against such a move in a national politics level in one of the member states of the European Union. For them, Haider was arguing a 180 degree reverse from the West European liberal tradition they have believed.

Now it is clear that social and political unrest in Europe is a result of the large number of illegal foreigners and asylum seekers, thus, governments in Europe have taken measures to restrict the number of asylum applications.

Restricted measures for asylum applications in West European countries

A policy paper published by the UNHCR, *The trafficking and smuggling of refugees: the end game in European asylum policy?*, correctly points out the lack of “regular” possibilities for refugees wishing to come to Europe. The paper depicts reluctance of West European countries to receive asylum applications. Ever increasing numbers of asylum claims in Western Europe countries between 1985-1992 made their governments to take various restrictive measures for submitting asylum claims.

According to the policy paper, the following factors may account for the

significant increase in asylum applications between 1985 and 1992: 1) Most other legal forms of immigration apart from family reunification and formation had been stopped or significantly reduced; 2) The asylum procedure came to be seen by some applicants as a de facto immigration mechanism, because it allowed asylum applicants to remain in a country and often to work or receive welfare benefits while the claim was being processed; 3) As the number of applicants increased, the existing procedures which were designed to deal with small numbers of claims became less able to deal with the claims and the time taken to determine claims subsequently increased. Backlogs were created: cases remained pending for long periods before being considered. This created a potential pull factor. In view of the time it took to take a decision, the result was often that rejected asylum seekers could remain, not because they were in need of protection, but because they had been in the country for such a long period that it was no longer possible to return them.⁷⁴ From 1992 to 1997, asylum claims gradually declined in Western Europe. Governments in Western Europe attributed this declining tendency of the numbers of asylum claim submitted to the improved efficiency of European asylum systems since many restrictive measures allowed the system to deal with rapidly increasing numbers of asylum seekers. These measures are classified into four categories ranging from domestic to international measures.omission.

Internal Flight Alternative

Donor countries were alleged to have supported the UNHCR's activities in IDP producing areas to avoid receiving asylum seekers there. Donor countries noticed that curbing the number of asylum applications in their own soils was not sufficient. They found it effective to prevent would-be asylum seekers from fleeing so that states would not have to commit themselves to controversial and costly procedures on their own soil. It is well known that donor countries supported to establish so-called "safe haven", "safe corridor", or "safe area" in the former Yugoslavia, which produced the largest numbers of displaced persons after WWII in Europe.

In the last decade, there was a tendency for governments and even courts to interpret the criteria for a refugee status in an increasingly restrictive manner. In some cases, they refused to grant a refugee status for an asylum seeker on the ground that there was an “internal flight alternative.”⁷⁵ This means an asylum seeker should have sought refuge in another part of his own country. This logic has often been used by wealthy western countries, which are reluctant to commit their resources on asylees and refugees. So-called safe havens were enthusiastically supported by, the UK and France when Slovenia proposed the idea in the International Meeting on Humanitarian Aid to the Victims of the Conflict in the Former Yugoslavia in 1992 at the invitation of the UNHCR.⁷⁶ The following statement at the ICRC shows how the safe haven was viewed by (the International Committee of the Red Cross).

As no third country seems to be ready, even on a provisional basis, to grant asylum to one hundred thousand Bosnian refugees...and original concept must be devised to create protected zones...which are equal to the particular requirements and the sheer scale of the problem⁷⁷
(Chimni, B.S)

Eventually, safe zones were created in the former Yugoslavia, but without sufficient military protection and actually not safe at all for them. In the fifteen-month siege of Sarajevo, together with the five other Bosnian enclaves Bihac, Gorazde, Srebrenica, Tuzla and Zapa, “10,000-12,000 people had been killed –about 1,500 had died in the two months after the Security Council proclaimed the city a safe area.”⁷⁸ Commentators criticized the designation of safe area merely as “a pretext for refusing to grant asylum.”⁷⁹

Donor countries do not support the expansion of the UNHCR’s and other agencies’ activities for IDPs all over the world while they express humanitarian concerns over the issues. They have already been feeling pressure from the large number of asylum claims as well as substantial numbers of immigrants whether or not they have a legal status. Countries in Western Europe and North America took

various restrictive measures to curb the asylum claims, which were classified into four categories. Governments of donor countries invoked the so-called internal flight alternative to decrease asylum applications. This notion is basically to “establish a location within the disputed territory which is neutral and free of belligerent activity, and to which humanitarian access is guaranteed”⁸⁰, which are called safe heaven, safe corridor, and safe area. However, as everybody knows, these safe havens were not safe at all lacking sufficient military protection for its population or the will of protecting the uprooted people in the safe heavens.

Part III: Foundation of International Protection and Assistance for IDPs

III-1: Discussions at the UN on normative framework for giving protection and assistance to IDPs

First of all, the process by which the GPs were made should be understood because it illustrates how the UN regards IDP problems. The central figure who initiated the creation of the GPs was the Representative of the UN Secretary-General on internal displacement. In 1992, the Commission on Human Rights requested the UN Secretary-General to appoint a representative on internally displaced persons, and a Sudanese diplomat Francis. M. Deng was appointed to the position, which is voluntary and part-time basis. He was requested to prepare a comprehensive study identifying existing laws and mechanisms for the protection of IDPs, propose additional measures to strengthen implementation of these laws, and alternatives for addressing protection needs not adequately covered by existing instruments.⁸¹ In accordance with these requests, the Representative paid visits to countries experiencing grave problems of internal displacement. He has published country situation reports and made recommendations for improving the treatment of the displaced and dialogued with various actors including government officials, and heads of human rights, humanitarian and development agencies.

One of the most significant results of his efforts is compilation of the Guiding Principles on Internal Displacement, which was submitted to the

Commission on Human Rights in 1998. The Commission, at its 54th session, noted the progress made by the Representative in developing a legal framework and took note of the GPs. Composed of 30 principles on various themes, the GPs reflect and are consistent with international human rights and humanitarian law, and with refugee law by analogy, and clarify the rights and guarantees involved in all phases of displacement.⁸² Therefore, it is good guidance to all concerned actors such as states when faced with the phenomenon of internal displacement, all other authorities, groups and persons in their relations with IDPs, and intergovernmental and NGOs.

Organizational actors at the United Nations such as the General Assembly, the Security Council, and the Secretary-General, welcome and appreciate the GPs and request relevant actors to comply with them. In its resolution 54/67, the UN General Assembly welcomes the publication and dissemination of the compilation and analysis of legal norms prepared by the Representative.⁸³ He has made use of the GPs in dialogues with governments and intergovernmental and non-governmental organizations (NGOs) and was requested to continue his efforts. Furthermore, the same resolution notes with appreciation that the UN agencies, regional and NGOs are using the GPs in their work. The UN Secretary-General also in his recommendation to the UN Security Council stated that “[i]n cases of massive internal displacement, encourage States to follow the legal guidance provided in the Guiding Principles on Internal Displacement.”⁸⁴ In addition, the Security Council during its “Month of Africa” session in January 2000 issued a presidential statement noting, “that United Nations agencies, regional and non-governmental organizations, in cooperation with host Governments, are making use of the Guiding Principles on Internal Displacement, inter alia, in Africa.”⁸⁵ As these examples demonstrate, the UN General Assembly, Security Council, and Secretary-General have responded positively and support the GPs in situations of internal displacement all over the world.

Other countries also responded positively on the GPs such as Colombia, Angola, and Armenia, all of which have a large number of IDPs. In Colombia, the Constitutional Court ruled two judgements that cite the GPs in support of actions in favor of IDPs.⁸⁶ One of the judgements stated on the GPs “that they (the GPs) clarify the gaps and gray areas in existing international law and have been widely accepted

by international human rights organizations...⁸⁷ In Angola, the GPs became the foundation for the minimum standard of resettlement of IDPs and the standards were adopted by its Council of Ministers in October 2000.⁸⁸ In Armenia, the government translated the GPs into Armenian and published them in booklet form and delivered to all related ministries, and NGOs, and educational institutions.⁸⁹ Therefore, countries have responded to the GPs positively.

However, the most important actor is omitted from the picture described above. IDPs are not even included in the discussion. From their perspective, it is obvious that just taking note of and requesting the use of the GPs is not enough: they need concrete and firm action for their predicament. Therefore, it is important that we do not trust blindly their role. Let us investigate the limitations of the GPs in order to understand what could be duly expected from them.

As the UN report stipulates the GPs have not been drafted formally or formally adopted by governments.⁹⁰ Thus, it is not a binding legal document but simply authoritative guidelines. It could be logically possible to claim that the GPs do not carry any significance whatsoever. No one is obliged to do anything under the GPs. Nevertheless, the non-binding character of the GPs could also be considered significant. As chapter III of Part I showed, while IDP problems are considered to be human rights issues, the authority of sovereign prerogative is still a powerful notion in that both sovereignty and humanitarian concern have to be properly balanced. IDP problems are sensitive issues for most of the countries with displaced populations because it often involves the vital interests of a state, such as national security. In this sense, the non-binding character of the GPs makes it possible for states to make use of it just functionally. No one could interfere in their domestic matters merely because it does not stick to the practice stipulated in the GPs. From this perspective, promoting the further use and dissemination of the GPs are important because that could evolve as an international custom among sovereign states and could eventually be regarded as an international law, which could take some time. It remains to be seen how many countries accept the GPs for their practices.

III-2: An Institutional Framework

There are many proposals on how the international community should involve itself in IDP crises. Some argue that a single agency should be assigned responsibility to deal with IDPs. Other proposes an effective institutional framework be made. This chapter supports the latter view because this is the most practical idea. However, an idea of assigning overall responsibility on IDPs to the UNHCR will be discussed because it has won some support. Then strengthening an institutional arrangement is claimed.

Assigning Overall Responsibility of IDPs to the UNHCR

Richard Holbrooke, the former US Permanent Representative to the United Nations, is one of the leading advocates on assigning overall responsibility of IDPs to the UNHCR. He argued that the UN refugee body is the best equipped agency.⁹¹ The UNHCR has accumulated experience and expertise to manage refugees and other peoples of its concern, which can be applied to deal with IDPs. Assigning responsibility to the UNHCR could solve the disparity of the level of assistance refugees and IDPs receive on one side of the border over the other side. However, the notion of expanding the roles of the UNHCR, which would give assistance and protection to all IDPs of the world, is not supported because donor countries are reluctant to give political and financial support to any idea, which would increase their burden. The UNHCR itself is in an ambivalent position, which surely shows “interests” to become involved in IDP situations more actively, however lacks the resources to make it come true.

A viable alternative to mitigate the sufferings of IDPs must be found, such as strengthening an institutional framework or a collaborative approach. Many commentators have argued how an effective institutional framework should be to mitigate the plights of IDPs. Commentators share the idea that the international community should intervene a state where the government is irresponsible for the people it governs. One of the leading advocates of collaborative approaches is Guy S.

Goodwin-Gill, Oxford University professor of international refugee law. He proposes that, “[i]n principle, the protection of the internally displaced.... should be entrusted, as is now often the case, to the International Committee of the Red Cross, complemented as appropriate by the distinctive role of the United Nations High Commissioner for Human Rights, and/or by a competent regional organization such as the Organization for Security and Cooperation in Europe.”⁹² Other credible commentators such as Cohen and Cuenod (‘95), Cohen and Deng (‘98), Deng (‘94), and Geissler (‘99) argued that, on the international level, strengthening the coordination within and outside the UN system and intergovernmental bodies working for IDPs with the dynamic leadership of the UN Emergency Relief Coordinator (ERC) is the best way to respond to IDP crises.

Establishment of an effective institutional framework

Aside from academic discussions, observations on field level operations indicate that making an effective institutional framework is the best possible idea. Each international agency complements the necessary areas of expertise as a situation requires, which is the current approach to IDP assistance and protection. First, one must clarify the goals to be achieved in discussing a way to strengthen a collaborative approach. The most important thing is that any proposal has to serve to mitigate the plights of the IDPs. The goal must be to raise the welfare of the IDPs. Second, it has to improve the current ineffective collaborative approach. Not only are turf struggles and ineffective cooperation rampant among the current collaboration of international agencies, there are other problems including the security of IDPs as well as humanitarian workers, and reintegration and development support.

The UNHCR should be the locus of responsibility on emergency humanitarian assistance and protection on IDPs in the field levels. The UNHCR should assume responsibility on emergency response regarding IDPs as well as others of its concern; refugees, returnees, and asylum seekers. It does not require fundamental change in the UNHCR’s political and financial status but gives more

information and resources in emergency situations to the UNHCR.

Currently, the UNDP's resident representative in each country coordinates the activities of the whole UN system in the field. However, it is obvious that the system has not been working well. Confusion among international agencies working for IDPs undermines the quality of the humanitarian assistance and protection for IDPs. It is because the UNDP is not designed to perform emergency response in the first place. Certainly, there is an Emergency Response Division within the UNDP. However, the Division's work can be replaced with the UNHCR since it would respond better to emergency situations as it was established to respond to refugee crises, which inevitably require emergency responses. The UNHCR has exchanged a Memorandum Of Understandings (MOU) with the WFP and UNICEF to clarify the roles when refugee and IDP flows occur. It is necessary to respond to emergency situations quickly. Such clarification in a division of labor among international agencies made it possible for them to give protection and assistance to IDPs in an effective manner. However, the UNHCR's assuming a more active role in emergency situations does not mean the UNDP should withdraw from the emergency field operations for IDPs. The UNDP should focus more on post-conflict or post-emergency development in close consultation with the UNHCR regarding when the transition should take place from the UNHCR to the UNDP. The UNHCR and the UNDP should become like wheels of a car, one needs the other to make a car goes smoothly. Both organizations should achieve to make the emergency response system, which is automatic in terms of information gathering, mobilization of their personnel, delivery of aid, and scope of each organization's responsibility. Since the UNHCR has assumed a lead role in humanitarian assistance in the former Yugoslavia and Tajikistan, the UNHCR is ready to take such a lead in emergency response. Thus, the key remains to the UNDP side, which requires not only on field level efforts but bureaucratic support.

Issues of Protection

On a bureaucratic level, the ERC's function has to be increased considerably.

The severest flaw is that the ERC is not formally responsible for giving protection to IDPs. The ERC has to consult closely with the UN Department of Peacekeeping Operations and the Secretary-General so that Peacekeeping Operations are effectively conducted. In Bosnia and Sri Lanka, it is reported that with the lack of a peacekeeping force, humanitarian workers have had to risk their lives in conducting their jobs. However, such problems lingers even if a PKF is deployed because PKFs are only allowed to have light weapons, which means they cannot do anything but hide and watch even when a heavy fighting occurs. It is questionable if PKFs are effective in defending IDPs. In the case of the former Yugoslavia, the international community had only, "effectively addressed the risk of starvation."⁹³ However, without considering the need for effective security measures for IDPs, "the international community's response could be considered a success only insofar as it 'allowed Bosnians to die on a full stomach.'"⁹⁴ UN troops were deployed but could not prevent the Bosnian Serbs from engaging in the atrocities against other ethnic groups, and vice versa, until NATO militarily intervened. The tragic massacre of Srebrenica occurred in front of Dutch peacekeepers. So, unless the military presence of PKFs is effective enough to guarantee the security of IDPs, their existence is merely a token. Possibly, fundamentally strengthened and properly authorized military presence could have mitigated the massacre of Srebrenica. However, such a strengthened and authorized PKF is not in the foreseeable future. Therefore, the only thing we can do now is to make the ERC more effective in terms of information gathering on security issues for both humanitarian workers and IDPs, and informing and coordinating field level operations through the UNHCR.

Finally, it has to be strongly argued that these proposals and suggestions for strengthening a collaborative approach must be conducted in a comprehensive manner. Adjustments and changes merely on the fields or headquarters in Geneva or New York have a small impact. Only through a comprehensive approach, the quality of protection and assistance to IDPs will be enhanced through better communication among international agencies and, thus better cooperation.

However, it is also clear that there are obstacles if a comprehensive approach is pursued. Primarily, as is always the case, political support for such an

approach is hard to gain. It may be possible to have support for an individual idea such as assigning an emergency response role to the UNHCR in place of the UNDP's resident representative because this is essentially a problem of who conducts humanitarian assistance. However, if a comprehensive approach is pursued and peacekeeping operations are discussed, it is nearly impossible to have an agreement because of the security issue. Many countries including permanent members of the UN Security Council do not want to talk about strengthening the function of PKOs. The Kosovo crisis in 2000 was an obvious example. The deteriorating situation in Kosovo required an impartial presence like the UN but it could not send any troop as authorized soldiers of the organization. Disagreement among the permanent members of the Security Council on whether the UN should give authorization to send military troops to an independent sovereign state made it impossible to authorize a military mission led by NATO. Unless this military problem is solved, it is hard to achieve effective and safe protection and assistance to IDPs. Until it is achieved, the gap between the reality of insecurity and ineffectiveness of protection and assistance to IDPs and the ideal situation, where desired changes are realized, will have to be compensated by unnecessary security risk and bloodshed of humanitarian workers and the IDPs themselves. Therefore, it is strongly encouraged that necessary protection be provided as soon as possible.

Conclusion

There are international laws that could provide a foundation to give protection and assistance to IDPs but they are not reliably applicable in actual IDP situations. International humanitarian agencies are inefficient and selective in giving protection and assistance to IDPs. Sovereign prerogatives of states are still regarded as authoritative even though they often commit serious violations of human rights. Despite such deplorable situations, the UN has been awkward in responding to IDP crises because it is hampered by various interests among member states. Moreover, governments of countries with IDPs are reluctant to have the international community observe conditions of IDPs in their countries, and donor countries are also

reluctant to actively support the UN in IDP crises as they fear they would have to bear more of a burden. In such a context, creating the Guiding Principles of the 1998 by the Representative Deng and other experts on the field is a welcome initiative for the international community to tackle the IDP issues. The institutional arrangement has to be strengthened to achieve effective cooperation among international agencies working for IDPs in spite of its difficulty because this is the best possible way to respond to the IDP crises.

IDP issues are one of the dark sides in the 21st century. The world is becoming smaller and smaller as technologies in the field of transportation and communication develop, which makes us realize that we are living on the same planet at the same time. However, our fellow human beings on the same planet are suffering wars, conflicts, and hunger. Issues on IDPs fall into the vacuum of responsibilities in the international community and they should receive proper treatment for humanitarian reasons. How much the international community can do for the IDPs is an indicator to show the maturity of it. It is certainly true that the international community can respond to only a part of the IDPs in the world now, however, this fact should not discourage us. It is a significant that more than 11 million refugees are being given protection and assistance by the UNHCR today, considering the fact that they would have received scarce attention by the international community just about half a century ago. Moreover, because of the intense work of Representative Deng and other experts, the Guiding Principles were realized at the UN Commission on Human Rights, which is a big positive step. It will take time to make the GPs more effective and enforceable, however, it is important that we initiate further steps to give protection and assistance to IDPs within the current framework to mitigate their suffering.

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1 Inadequateness of the international community's responses could be understood by comparing it's dealing with IDPs to that of refugees. According to World Refugee Survey 2001. Washington, DC. 4,6, the numerical scale of IDPs is larger than that of refugees: there are more than 20 million IDPs worldwide while there are 14.5 million refugees and asylum seekers. Both groups of people clearly need protection and assistance from the international community

because they are stripped of their fundamental human rights. Their plights are the same. However, in contrast with refugees, IDPs have no formal rights to seek protection and assistance from the international community. Ad hoc responses of the international community cannot provide IDPs with adequate protection and assistance. While there is a well-established set of international laws for refugees, there is no international law specifically written to give protection and assistance to IDPs. The Guiding Principles of 1998, which were developed by a team of lawyers under the direction of the representative of the UN secretary-general on the internally displaced persons, is a beacon of hope but it has not been formally accepted by the international community. The second aspect of IDP problems is related to peace and security. Large scale population displacement threatens the countries surrounding the IDP producing country because violence and instability tend to spread throughout the whole region. The reason for flight of IDPs and refugees are often similar. In the Gulf crisis in 1991, Turkey had to close its borders to prevent the persecuted Iraqi Kurds from entering because Turkey was concerned that allowing thousands of Iraqi Kurds could cause instability in the eastern side of the country where insurgent movements for independence were active.

2 I follow the categorization of three recognized situations of IDPs presented in Chapter 3 of Cohen, Roberta & Deng, Francis M (1998) *Masses In Flight*. Washington, DC: Brookings Institution Press.

3 *Ibid.*, 77.

4 Geissler, Nils (1999) "The international protection of internally displaced persons." *International Journal of Refugee law*. 11 (3). 459.

5 Allison, Graham and Zelikow, Philip (1999) *Essence of decision: explaining the Cuban missile crisis*. New York: Longman. 181.

6 Cohen, Roberta (2000) "Internally displaced." *The New York Times*. July 27.

7 Cohen and Deng, 145.

8 The United Nations High Commissioner Refugees (1994) *UNHCR's Operational Experience with Internally Displaced Persons*. Geneva: Division of international protection of UNHCR. 67.

9 *Ibid.*, 17.

10 *Ibid.*, 150.

11 *Ibid.*

12 Kent, Randolph C (1995) "Humanitarian assistance and inter-agency co-ordination and co-operation: constraints and prospects in and African context." *International Journal of Refugee Law*. Special Issue 1995.

13 Cohen and Deng, 161.

14 *Ibid.*, 162.

15 *Ibid.*, 149.

16 Tanaka, Akihiko(1999)"Kokkasyuken to kokusaizeigi(state sovereignty and international justice)". *Asuteion*52. Committee on Intellectual Correspondence. Tokyo....

He points out that the principle of non-intervention has developed historically and, thus, should not be regarded as a rigid norm.

Weiss, Thomas G(1999) "Whither international efforts for internally displaced persons?" *Journal of Peace Research* 36(3). 371.

He claims that "state sovereignty is an inhere social construct. It is not cast in concrete. "

17 Tanaka, ...

18 Tatsuzawa, Kunihiko(1996) "Kokusaihoujyou no Kankatsuken(Jurisdiction in the international laws)" in Tatsuzawa, "Kunihiko Kokusaikannkei Hou (Laws on international relations)". Maruzen Planet. Tokyo. 61.

19 Saito, Yasuhiko(1992) "Chiikifunonso to shiteno wangansenso no nokoshita kadai(Issues the Gulf War, as a regional conflict, left)" in Chiiki funso to sougoizon (Regional conflict and interdependence). *Kaigaijijyo Kenkyusyo*, Tokyo Gaikokugo Daigaku. Tokyo.4.

20 Deng, Kimaro, Lyons, Rothchild, and Zartman (1996) *Sovereignty as Responsibility: Conflict Management in Africa*. Washington, DC: Brooking Institution Press. 28.

21 Ruddick, Elizabeth E(1997) "The continuing constraint of sovereignty: international law, international protection, and the internally displaced." *Boston University Law Review* 77:429. 467.

22 Nishiumi, Masaki(1994) "Jindouteki kyuuennkenn ron (Argument on 'the rights to

- humanitarian relief)". Kumamoto Hougaku 81. Kumamoto Daigaku. 198.
- 23 UN General Assembly Resolution 43/131. Humanitarian assistance to victims of natural disasters and similar emergency situations 8/December 1988
- UN General Assembly Resolution 45/100. Humanitarian assistance to victims of natural disasters and similar emergency situations 14/December 1990.
- 24 Nishiumi, 198.
- 25 Sato, Tetsuo (1994) "Reisengono kokusairenngoukensho dai7sho ni motoduku anzenhohsoriijikai no katsudo-buryokukoshi ni kakawaru 2tsuno jirei wo megutte (UN Security Council's activities under the chapter 7 of the UN Charter after the Cold War- Two cases on the use of force)" Hitotsubashidaigaku Kenkyu Ninpo, Hougakukenkyu 26. Hitotsubashi Daigaku. 102.
- 26 The United Nations High Commissioner for Refugees(2000) Sekai Nanmin Hakusyo (The State of the World's Refugees 2000). Jiji Tsuushin sha. Tokyo. 10.309
- 27 For instance, the UN General Assembly reiterates its support for the role of the Office of the UNHCR in providing humanitarian assistance and protection to IDPs.
- The United Nations (2000) A/RES/54/146. 22 February 2000.
- 28 In the former Yugoslavia, the UNHCR was asked to assume a lead role in the delivery of humanitarian assistance by the then UN Secretary-General, Perez de Cuellar, and in 1993 the Netherlands proposed that the UNHCR be assigned a general competence in responding to IDP situations replacing the present ad hoc arrangement.
- Cohen and Deng, 170.
- 29 The United Nations High Commissioner for Refugees (2000) Internally displaced persons: The role of the United Nations High Commissioner for Refugees.....:.....
<http://www.unhcr.ch/issues/idp/pos0003.htm>
- 30 Ibid.
- 31 The United Nations High Commissioner for Refugees (2000) UNHCR and the internally displaced: questions and answers.....: UNHCR Public Information Section.....
<http://www.unhcr.ch/issues/idp/qa0003.htm>
- 32 Ibid., ...
- 33 Ibid., ...
- 34 The United Nations High Commissioner for Refugees (1997) The state of the world's refugees 1997-98. New York: Oxford University Press. 117.
- 35 The United Nations High Commissioner for Refugees, UNHCR and the internally displaced.....
- For the former, the UNHCR means, 1) refugees and displaced persons are generated by the same causes, 2) effective reintegration of returnees (repatriated refugees who are in the process of integrating their countries of origins) requires assistance to be extended also to the internally displaced in the same locality or community, 3) some refugees seek asylum across the border in areas where there are also internally displaced. For the latter, the UNHCR means, 1) refugees may be a minor component of massive internal displacement, 2) internal conflicts of a secessionist nature have uprooted people within national boundaries, which have then become international borders, 3) early action to protect and assist internal displacement might check the proliferation and prolongation of human suffering and promote regional stability.
- 36 These analyses contain the following points: 1) impact on the non-political character and humanitarian nature of the UNHCR's mandate, 2) impact on refugee protection and the institution of asylum, 3) impact on internally displaced or the extent to which the UNHCR's involvement will actually improve the protection situation and solutions possibilities of the internally displaced, 4) relevance of the UNHCR's experience and expertise
- 37 The United Nations High Commissioner for Refugees (1994) "Documents: UNHCR Executive Committee, Sub-Committee on International Protection, Protection aspects of UNHCR activities on behalf of internally displaced persons." International Journal of Refugee Law. 6 (3). 490.
- 38 Long, Lynellyn D (1993) Ban Vinai: The refugee camp. New York: Columbia University Press. 19.
- 39 The United Nations High Commissioner for Refugees, The Global Appeal 2000. 16.
- 40 Loescher, Gil (1993) Beyond Charity. New York: Oxford University Press. 135.
- 41 Cunliffe, Alex (1995) The refugee crises: a study of the United Nations High Commissioner for Refugees. Political Studies. XLIII. 284.

- 42 The United States Committee for Refugees (2000). World Refugee Survey. Washington, DC: USCR. 117.
- 43 The United Nations High Commissioner for Refugees, UNHCR's Operational Experience.... 46.
- 44 Cohen and Deng, 130.
- 45 Ibid.
- 46 *ibid.*, 129.
- 47 Guy S. Goodwin-Gill (2000) UNHCR and internal displacement: stepping into a legal and political minefield. in World Refugee Survey 2000. Washington, DC: USCR. 29.
- 48 Korn, David (1999) Exodus within borders. Washington, DC: Brookings Institution Press. 36.
- 49 For the former Yugoslavia, West European countries made a large amount of contribution to the UNHCR.
- 50 Cohen and Deng, 130.
- 51 The United Nations High Commissioner for Refugees, The state of the world's refugees 1997-98. 209.
- 52 Before the government of Mozambique and RENAMO signed a General Peace Accord in October 1992, an estimated 3.5 million IDPs and 1.5 million refugees were produced as a result of the civil war. However, since the middle of 1980's, the government of Mozambique cooperated with several UN agencies such as the WFP, the UNDP, UNICEF, the UNDR0, and NGOs to implement an international relief and rehabilitation programme for many IDPs in the country. The effects of the programme have been accelerated since the General Peace Agreement was signed. The government of Mozambique, with its operational arm, the Department for the Prevention of Combat and Natural Calamities or the DPCCN, pursued the programme to benefit not only IDPs but also Afectados, or those who were affected by war or natural disasters, have no capacity to produce or buy their basic necessities. Recuperados are those who are from areas re-taken by the government from RENAMO forces, and Regressados are returning refugees.
- UNHCR (1994) UNHCR's Operational Experience with Internally Displaced Persons. Geneva: Division of international protection of UNHCR. 54.
- 53 In Angola, a protracted civil war between the government and the rebel group, the UNITA since its independence from Portugal in 1975, has produced a large numbers of refugees and IDPs. The international community recognized the legitimacy of the government and provided some assistance in respond to calls from the government and its people. For instance, the UNHCR helped repatriate Angolan refugees mainly in Shaba Province of Zaire in 1989 through 1990. In addition, international NGOs such as the Lutheran World Federation, the Medecins sans Frontiere, and the Save the Children Fund, are actively involved in the delivery of assistance.
- Ibid. 32.
- 54 Violence inflicted by and amongst insurgent groups such as the Shining Path, the Revolutionary Tupac Amaru Movement, and the nation's military caused many people to flee. UNDP's document published in 1993 suggested that 570,000 people were internally displaced. The UNDP, UNICEF, and the WFP gave limited humanitarian assistance.
- Ibid. 29.
- 55 Complex political, military, and social situations in Afghanistan made governmental authority incapable. A civil war and the Soviet occupation totally devastated the whole country and many refugees and IDPs fled their homes. Large magnitudes of displacement made it difficult to measure the correct number of those who were displaced. However, many in the international community estimated that four million people fled to Iran and Pakistan and two million IDPs were produced in the late 1980's. Ibid. 18. In 2001, the Taliban administration came to a total breakdown as a result of the US bombings and battles with the advancement of the Northern Alliance. After the end of the conflict, the UN transitional authority started its administration in Afghanistan in cooperation with the international community. However, it remains to be seen if the administration can cope with reconstructing the ruined country, and thus, the fate of the IDPs and refugees in neighboring countries.
- 56 Frelick, Bill (1998) "Aliens in their own land." World Refugee Survey 1998. Washington, DC. USCR. 1. http://www.refugees.org/world/articles/internallydisplaced_wrs98.htm
- 57 The United States Committee for Refugees, World Refugee Survey 2000. 263.

- 58 Commission on Security and Cooperation in Europe (1993) Situation of Kurds in Turkey, Iraq and Iran. Washington, DC: CSCE.7.
- 59 Furthermore, Gunter shows six areas where critics of Turkey's human rights record focus attention. 1) torture and the suspicious deaths of prisoners held in detention, 2) disappearances and extrajudicial killings of opposition politicians, human rights activists, journalists, and Kurdish nationalists, 3) government infringements on the freedoms of speech, press, and association, 4) denial of due process to persons under the jurisdiction of State Security Courts and the in the state of emergency region, 5) the murder of Kurdish civilians and the destruction of Kurdish villages in the southeast by the Turkish military, 6) the suppression of Kurdish cultural expression
- Gunter, M, Michael (1997) *The Kurds and the Future Turkey*. New York: ST. Martin's Press.12.
- 60 Cohen and Deng, 34, 133, 225.
- 61 "Two international documents, the 1951 Refugee Convention and its 1967 Protocol, establish the legal standards for refugee protection. Although the Refugee Convention and Protocol do not require states to provide asylum to refugees, they do include an explicit prohibition against refoulement-expelling or returning refugees to countries where their lives or freedom would be threatened. By signing the Refugee Convention or Protocol, a government willingly binds itself to the legal obligations contained in the document."
- The United States Committee for Refugees, *World Refugee Survey 2000*. 9.
- Monaco is a signatory of the 1951 Refugee Convention but not the 1967 Protocol. The United States is a signatory for the 1967 Protocol but not the 1951 Convention. All other West European countries and Canada are signatories for both the Convention and the Protocol.
- 62 Adam Roberts (1998) "More refugees, less asylum: a regime in transformation." *Journal of Refugee Studies*. 11 (4). 379.
- 63 The United Nations High Commissioner for Refugees, *The state of the world's refugees 1997-98*. 188.
- 64 Keely, Charles B and Russell, Sharon Stanton (1994) "Response of industrial countries to asylum seekers." *Journal of International Affairs*, 47.....
- 65 The United Nations High Commissioner for Refugees, *The state of the world's refugees 1997-98*. 185.
- 66 Keely and Russell, ...
- 67 Ibid ., ...
- 68 Ibid ., ...
- 69 The International Herald Tribune reported violence inflicted against an Algerian immigrant by a group of Neo-Nazi , which four neo-Nazi youths have been arrested on charges of manslaughter and breach of the peace.
- International Herald Tribune (Neuilly-sur-Seine, France) (2000) *In Germany, an Asylum Seeker Fell Into Limbo, Then Into Death*. February 25.
- 70 Three children and a woman were injured in the attack, which coincided with a warning by the head of Germany's Jewish community about growing Neo-Nazi violence by young people.
- Tony Paterson (2000) "Neo-Nazis attack refugee hostel." *The Guardian* (London). July 17.
- 71 The survey showed that 54 percent of the people questioned, or eight percent more than a year before, believed that Sweden had taken in too many immigrants.
- Reuters (2000) "Swedes more sceptical towards immigration-survey." July 12.
- 72 Schneider, 163.
- 73 Terrence Petty (1996) "Is Germany's Asylum Law Unjust? High Court to Decide." *The Associated Press*. May 13.
- 74 Crosland, B & Morris, J (2000) *The trafficking and smuggling of refugees: the end game in European asylum policy? (Pre-publication edition).....: Evaluation and Policy Analysis Unit of the UNHCR*. 34.
- 75 The United Nations High Commissioner for Refugees, *The state of the world's refugees 1997-98*. 194.
- 76 Chimni, B.S. (1995) "Incarceration of victims: Deconstructing safety zones" in Al-Nauimi, Najeeb and Meese, Richard (1995) *International legal issues arising under the United Nations decade of international law*. The Hague/Boston/London: Martinus Nijhoff Publishers. 839.
- 77 Ibid., 841.
- 78 Katarova, Marinana (1993) "H(e)aven can wait." *The Nation*. 257 (5). 172.

- 79 Landgren, Karin (1996) *Danger: Safe areas. Refugees*. 103 (I). 18.
80 *Ibid.*, 16.
81 The United Nations (2001) A/56/168. 21 August 2001. 4.
82 *Ibid.*
8383 The United Nations (2001) A/RES/54/167. 25 February 2001.
84 The United Nations (1999) S/1999/957. 8 September 1999. 10.
85 The United Nations (2000) S/PV.4089. 13 January 1999. 27.
86 The United Nations, A/56/168. 6.
87 *Ibid.*, 7.
88 *Ibid.*, 7.
89 *Ibid.*, 7.
90 *Ibid.*, 6
91 Holbrooke, Richard C (2000) "The internally displaced: falling between the bureaucratic cracks." in *World Refugee Survey 2000*. 30. Statement by Ambassador Richard C. Holbrooke, US Permanent Representative to the United Nations, on "Promoting Peace and Security: Humanitarian Assistance to Refugees in Africa," in the Security Council, January 13, 2000.
92 Goodwin-Gill, Guy S, UNHCR and internal displacement: stepping into a legal and political minefield. in *World Refugee Survey 2000*. Washington, DC: USCR. 31.
93 Cohen and Deng, 255.
94 *Ibid.* If necessary security is not provided, such a contradiction occurs.