

# PROTECTING INTERNALLY DISPLACED PERSONS IN KOSOVO

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ACRONYMS	
<b>AVM</b>	Air Verification Mission of NATO
<b>EXCOM</b>	Executive Committee of UNHCR
<b>FRY</b>	Federal Republic of Yugoslavia
<b>GFAP</b>	General Framework Agreement for Peace in Bosnia-Herzegovina
<b>ICRC</b>	International Committee of the Red Cross
<b>ICTY</b>	International Criminal Tribunal for former Yugoslavia
<b>IDP</b>	Internally Displaced Person
<b>KDOM</b>	Kosovo Diplomatic Observer Mission
<b>KLA</b>	Kosovo Liberation Army
<b>KVM</b>	Kosovo Verification Mission of OSCE
<b>NATO</b>	North Atlantic Treaty Organization
<b>NGO</b>	Non-Governmental Organization
<b>OSCE</b>	Organisation for Security and Cooperation in Europe
<b>UNHCHR</b>	United Nations High Commissioner for Human Rights
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>WFP</b>	World Food Program
<b>XFOR</b>	Extraction Force of NATO

## 1. Introduction

In early September 1998 a *New York Times* correspondent in Prishtina reported:

As many as 40,000 ethnic Albanians, mostly women, children and old men, were trapped today on a dirt road south of here in western Kosovo as they tried to flee an advancing Serbian armored column, a United Nations official said.(1)

These images, and the subsequent ones of tens of thousands of Kosovars literally camping under sheets of plastic or branches in the forests of Kosovo shook all observers. Then followed the images of massacred families, and an eyewitness account by a survivor of one of these massacres prompted the major powers to take some stronger political action.

The question immediately arose how the international community could provide protection and assistance to the people in the forests and elsewhere in Kosovo, as well as more fundamentally, where to find a political solution to the situation. As the UN High Commissioner for Refugees, Mrs. Sadako Ogata, pointed out in her speech to the Executive Committee of her Office (EXCOM) in early October 1998:

Kosovo is a political problem with devastating humanitarian consequences. While colleagues in the field carry out their life-saving efforts, we must insist that a just and lasting political solution be realized *immediately*, before it is too late.(2)

Once again Mrs. Ogata reiterated that humanitarian action can not be a substitute for political solution. Meanwhile, however, a full-scale humanitarian action had to be undertaken in the field.

This paper focuses on the response by the international community to events during the summer and autumn of 1998, in particular on that of the United Nations High Commissioner for Refugees (UNHCR) in its efforts to provide for protection and assistance to internally displaced persons in Kosovo. The main question raised is whether UNHCR is able to provide effective protection and assistance to internally displaced persons in an emergency situation, such as the one in Kosovo. Therefore the protection strategy developed by UNHCR, the obstacles in implementing the strategy concerned, as well as its success or failure will be analyzed. The paper concludes with a discussion of the situation at the end of 1998, and in particular the challenges ahead for both UNHCR and the Kosovo Verification Mission (KVM) of the Organization for Security and Cooperation in Europe (OSCE). This analysis uses information gathered by the author during a field visit to Kosovo and Belgrade between the end of September and early October 1998.

## **2. Definition of internally displaced persons**

As a backdrop, it is desirable to examine briefly the definition of internally displaced persons, the legal framework involved, as well as the question of who is responsible for providing protection and assistance for the internally displaced. There is no firmly established definition of internally displaced persons, as the causes of displacement and the actual displacement situations are very diverse, such as mass violations of human rights, internal conflicts, break down of law and order, or natural disasters. In an effort to be as conclusive as possible, Francis M. Deng, Special Representative of the UN Secretary General for internally displaced persons, defines them as:

Persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular, as a result of, or in order to avoid the effects of, armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border. (Guiding Principles, Art. 2)([3](#))

UNHCR, on the other hand defines internally displaced persons as

...persons who, as a result of persecution, armed conflict or violence, have been forced to abandon their homes and leave their usual place of residence, and who remain within the borders of their own country,([4](#))

thereby indicating that these persons, had they crossed an international border, would be refugees. This latter definition also provides a closer tie to UNHCR's mandate, should the agency be or become involved in protecting and assisting internally displaced persons. There is no doubt that had the 300,000 internally displaced Kosovars crossed the international borders, they would have been considered refugees, like the more than 30,000 who have sought refuge in the neighboring countries of Albania, Bosnia and Herzegovina, and Macedonia and the tens of thousands of Kosovars in other countries, mainly Western Europe.

## **3. Legal framework**

With regard to a legal framework, there is no specific system of international protection for internally displaced persons. These persons fall under the jurisdiction and sovereignty of the state within which they remain, complemented by general international human rights law and international humanitarian law, the latter in cases of an armed conflict, be it an international or internal one. It should be noted that internally displaced persons do not lose their inherent rights because of the displacement and should receive the same protection as those not displaced. However, the problem is that the actual or threatened

displacement warrants specific responses to fulfilling basic human rights. One could argue that parts of refugee law could be applied by analogy, since in many cases the displaced are in a "refugee like situation" and would be refugees had they crossed a border.(5) Still, there are many gaps in the legal framework with regard to the protection of internally displaced persons.

Very often internal displacement occurs in situations where the government either is unable or unwilling to provide protection and assistance, or, as in the case of Kosovo, government policy and actions in fact create displacement. Therefore, one of the tasks of the Representative, Mr. Francis Deng, has been to study the legal framework related to the protection of internally displaced persons and to prepare a set of guiding principles.(6) Mr. Deng concluded in his report that some basic rights, such as the right to life, prohibition of torture, prohibition of inhuman and degrading treatment, etc., are adequately protected by international law. If they are not respected, the reason is the unwillingness of the state to fulfil its obligations, rather than an inadequate legal framework. On the other hand, in many instances further clarifications of international law would be needed for specific rights, so that such law would be applicable in a situation of internal displacement.(7)

The guiding principles presented in 1998 to the UN Commission on Human Rights are intended to identify the rights and guarantees for the protection of internally displaced persons and to fill the legal gaps affecting the specific problems faced by these persons.(8) The principles reiterate the rights of internally displaced persons and the obligations of states as well as of other parties to the conflict, thus offering, among other things, protection against arbitrary displacement, protection during the actual displacement, and reintegration after displacement. Notably, the principles also spell out the right of internally displaced persons to request international humanitarian assistance, the right of the international community to provide for humanitarian assistance, and the duty of the state to accept such assistance. Although the guiding principles are not a legally binding document, the principles reflect existing international human rights law and international humanitarian law.(9) For UNHCR, the guidelines provide for a "valuable protection tool and a strongly persuasive frame of reference."(10)

With respect to this case study of Kosovo it should be noted that the Federal Republic of Yugoslavia (FRY) has ratified the basic human rights documents(11) as well as those related to international humanitarian law.(12) The latter includes the second Protocol to the Geneva Conventions, which relates to non-international conflicts. Specific reference is made to the latter, since there is no doubt that this document would be applicable to the situation in Kosovo, where hostilities are between the national armed forces and armed groups organized under the leadership of a responsible command and exercising such control over a part of the territory as to enable them to conduct sustained and concerted military operations. It should be noted that the insurgent forces do not need to be signatories to this second protocol to be bound by it. Unfortunately, the Yugoslav authorities have repeatedly denied that there is or has been an internal conflict, thus refusing to admit that the above documents are applicable. Likewise, the authorities have been refusing visas to investigators of the International Criminal Tribunal for Former

Yugoslavia (ICTY).(13) However, Yugoslavia has not signed the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti Personnel Mines and on their Destruction of 1997, and has planted mines in Kosovo, in particular in the border areas towards Albania.

Given the above, along with national legislation, the main legal framework is there to protect internally displaced persons in Kosovo. However, as is known from a vast variety of reports, the Serb authorities have violated numerous articles in the international conventions mentioned, as indeed have the Kosovo Liberation Army (KLA) and other armed factions.(14)

#### **4. Who is responsible for providing international protection for internally displaced persons?**

The question then to be raised is, when the government is either unwilling or unable to carry out its responsibilities for protection of internally displaced persons, who is responsible? Today, we are in a situation where there is no single international organization clearly responsible for internally displaced persons. Instead, what has emerged is a set of concrete situations in which various organizations have taken the lead or responsibility for the protection of and assistance to the internally displaced.(15)

In an armed conflict, the International Committee of the Red Cross (ICRC) is clearly mandated to protect and assist internally displaced persons. Indeed in many conflict situations the ICRC does play an important role. The ICRC has in fact been present in Kosovo since 1993 and has been involved in a whole range of protection activities. At the height of the emergency in Kosovo during the summer and autumn of 1998, the ICRC reached out to those in the forests with emergency relief, and was still at the end of 1998 attempting to gain access to persons arrested by both sides, establishing the whereabouts of those abducted, as well as ensuring that the wounded and sick received adequate treatment. The ICRC is increasingly involved in advocacy, using media to raise awareness of serious abuses of human rights and international humanitarian law.

In both armed conflict and post-conflict situations, UNHCR has taken responsibility for internally displaced persons. In fact UNHCR has been considered by some as best suited to have overall responsibility for internally displaced persons in view of its expertise, but so far the organization has been unwilling to accept such responsibility.(16) Nonetheless, UNHCR still takes over the responsibility on an ad hoc basis, when it is requested to do so by the Secretary General or the General Assembly. In fact UNHCR's Statute of 1950 allows additional activities as determined by the General Assembly.(17) The General Assembly has since then given over this task to the Secretary General.(18)

There are in essence four situations when UNHCR has taken, or might take, the lead and responsibility for internally displaced persons:(19)

1. Internally displaced persons live alongside a refugee population and have similar needs for protection and assistance;
2. Internally displaced persons are already present in or going back to the same area as returning refugees;
3. The same situation has caused both refugees and internally displaced persons, and it makes sense to cater for the needs of both in one single operation; and
4. There is a potential for cross border movement, and therefore protection and assistance in the country of origin would enable the internally displaced to remain in their country of origin.

In the above situations it would not only make sense for UNHCR to cater to the needs of both the internally displaced and refugees alike, but it would be undesirable, maybe even detrimental, for UNHCR and/or its beneficiaries, not to treat them on an equal basis.<sup>(20)</sup> In some cases even remainees, that is, persons who have stayed behind when the majority have fled, are also included in the assistance programs. One could therefore argue that UNHCR should not categorize its beneficiaries, but be involved in a situation where it has an important role to play. Also the High Commissioner has stressed the importance of a comprehensive approach to the different categories of displaced persons.<sup>(21)</sup>

However, in order not to compromise its original mandate, UNHCR has established a number of more specific criteria which have to be met in order for the agency to take the responsibility for internally displaced persons:<sup>(22)</sup>

1. There should be a specific request made by the Secretary General or General Assembly to UNHCR;
2. The state concerned and other relevant parties should give their consent to UNHCR's involvement;
3. Resources such as funds and human capacity must be available;
4. The activities should be compatible with regular protection functions so that UNHCR's expertise and experience, especially in protection, is relevant in the particular situation;
5. These activities should not undermine the right of internally displaced persons to seek asylum in another state, since UNHCR's primary obligation is to safeguard the institution of asylum;
6. UNHCR must have unhindered and secured access to the internally displaced persons.

In this case study of Kosovo, UNHCR has been explicitly referred to as the lead humanitarian agency in Kosovo. This role derives naturally from the agency's mandate to protect and assist refugees from and internally displaced persons in Former Yugoslavia, which indeed is based on a request by the Secretary General and was later on confirmed in the Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina (GFAP), the so called Dayton Peace Accord; UNHCR's lead role has subsequently been reinforced in reports from the Secretary General on the situation in Kosovo.<sup>(23)</sup>

At times the question is posed whether UNHCR can claim to have been accorded the mandate to *protect* internally displaced persons by virtue of its lead roles in coordinating the humanitarian response in complex emergencies involving internally displaced. The High Commissioner, Mrs. Ogata, has stated that "humanitarian responses should serve first of all the protection of people,"(24) thus "ensuring the basic human rights, security and protection of all victims on all sides of a conflict."(25) Often the humanitarian response is seen strictly as delivering assistance, forms of food, non-food items, medicines, shelter, material and so forth in order to avoid the dilemma of national sovereignty. In fact, however, to be effective and successful, the humanitarian response has to be holistic. Therefore it should also include measures to ensure physical safety and respect for human rights, including advising the government on drafting laws to protect specific rights of internally displaced persons, intervening to register the internally displaced, thereby entitling them to assistance, access to health care and education, as well as establishing monitoring mechanisms and making sure their rights are fully respected.(26) All of the above activities are examples of traditional UNHCR core protection functions. Moreover, UNHCR's primary mandate is to protect and seek durable solutions, and therefore it goes without saying that those objectives must always be there for all activities undertaken by the organization. Interestingly enough, many development and humanitarian organizations have interpreted protection to mean delivering assistance and are only now coming around to add physical security and human rights issues to this term.(27) There is in fact a clear interdependence between protection and assistance. Assistance is frequently seen as a tool of protection, since it is much more than just providing for essential means. Assistance also provides access to those in need, and once access has been achieved, the presence of international organizations may possibly (temporarily at least) deter human rights abuses and displacement.(28) Assistance is also protection in the sense that it promotes basic human rights, such as rights to food, health and shelter. Therefore, UNHCR's mandate for internally displaced persons has to be seen as a mandate to protect and assist, and to truly fulfil its mandate the agency should not compromise its protection function.(29)

The Yugoslav government has agreed to UNHCR's role in Kosovo, and in fact increased its cooperation after the Milosevic-Yeltsin meeting in June 1998, as part of the agreement to avoid sanctions. At top levels of the Yugoslav government, it was agreed that UNHCR should have unhindered access to the internally displaced, although that instruction has not always filtered down to the local police at checkpoints. Nor do the local authorities always seem clear about the mandate of UNHCR. Therefore sensitization is important. In interviews with UNHCR officials in Belgrade and Kosovo, this author was told that in fact the government would like UNHCR to provide a good picture of the situation. UNHCR's role for the 700,000 refugees from Bosnia and Herzegovina and Croatia who arrived in the Federal Republic of Yugoslavia during 1991-95, which includes having brought in significant funding, is highly appreciated by the government. This gives added respect for the opinion and activities of UNHCR, and allows the organization to get involved in activities other than those strictly benefiting refugees without compromising its original mandate. However, the main concern of the authorities was that UNHCR not overstep its mandate, which is humanitarian, not political.(30)

The degree of consent between UNHCR and government officials clearly relates closely to the sixth condition for UNHCR's acceptance of responsibility for internally displaced persons, namely that of unhindered access. Any problem at the field level is immediately brought to the attention of the top level in Belgrade. During her visit between late September and early October 1998, this author observed that UNHCR vehicles were stopped at many police checkpoints. Their occupants were asked where they were heading and, although reference was made to the agreement with higher police authorities for unhindered access everywhere in Kosovo, the local police officer in charge had to check with his police commander. The UNHCR officials were then be able to pass, but "at their own risk, due to the possibility of terrorists in the area."

The operation in former Yugoslavia, along with other UNHCR operations, has received less and less funding as a result of donor fatigue. As a result of funds having to be spread to include the emergency activities in Kosovo, the regular refugee program in the Federal Republic of Yugoslavia suffered. A special Inter-Agency Appeal for Kosovo was launched in August 1998. This did elicit the necessary response thanks to the media attention given to the conflict in Kosovo during the late summer and early fall 1998, when the Serb offensive closed in on the KLA and drove tens of thousands of Kosovars out in the open, with no escape from the approaching winter. This appeal was made to cover the much needed activities in Albania, the Federal Republic of Yugoslavia (for Kosovo and Montenegro) and Macedonia for the period of June to December 1998. The total of the appeal reached 54 million US dollars, with UNHCR, WFP, and UNICEF appealing for the largest amounts.<sup>(31)</sup> With the high donor response, both food and non-food items were being delivered or were in the pipeline of many organizations by late September 1998. Moreover, UNHCR started to increase its international staff in Kosovo and Montenegro in August 1998, something that already had been done in Albania along with the first arrivals of refugees in March 1998. So the condition of available resources, in terms of both funds and human resources, was improving in late September and early October 1998. However, the pledges did not suffice for a carry over into 1999. Accordingly, a new appeal was launched in December 1998.<sup>(32)</sup> There was, however, concern among international monitors that the donations would be a cover for the lack of political engagement.

UNHCR's activities on behalf of internally displaced persons in Kosovo are compatible with its refugee programs there; indeed UNHCR has had a field office in Kosovo since late 1992. Until the increased fighting in spring and summer 1998, the main concern of the UNHCR office in Prishtina was the refugees, mainly Serb refugees from Croatia, staying in collective centers in the Kosovo province. UNHCR had already acquired relevant skills and an operational capacity, using the established networks for protection and assistance. This capacity could easily be expanded to benefit also the internally displaced persons. Furthermore, it was expected that both refugees from neighboring countries and internally displaced Kosovars in Montenegro and Kosovo would be returning to their places of origin or to temporary accommodation nearby. In such circumstances, UNHCR cannot and should not differentiate between returning refugees and internally displaced persons.



Western European countries were not the only ones worried about an influx of Kosovars; so too were the neighboring countries in Central Europe.(33) Serb forces had quickly cut off and mined the border area with Albania and efficiently closed the border. The reason for doing so was less to prevent Kosovars from fleeing to Albania, than to prevent the KLA from receiving its supply of arms and ammunition, as well as fighters, through the Albanian border. Macedonia, with a sizable Albanian minority of around 30 percent and worried about being dragged into this conflict or an influx of Kosovo asylum seekers having a destabilizing effect on its own internal affairs, also closed its border. Montenegro, having been severely affected by the number of refugees from the 1991-95 conflicts and then receiving an additional 42,000 Kosovars, a total number equal to 12 percent of the entire population of Montenegro, did the same. However, in October 1998, the Montenegrin authorities assured UNHCR that Kosovars could be allowed entry on a case by case basis.

Emphasis had to be put on the condition that protection and assistance of internally displaced persons should not diminish the possibility to seek asylum abroad. This was made clear in numerous statements made by the High Commissioner herself and her staff. In her opening statement at the October 1998 meeting of the UNHCR Executive Committee (EXCOM), on conditions for UNHCR's continued intervention on behalf of internally displaced persons the High Commissioner stated that UNHCR would so intervene

when requested and authorized to do so, and in particular where their situation may cause refugee flows...provided that the right of all people to seek asylum is respected, and provided that through our work we can facilitate the search for solutions for *all* those forcibly displaced.(34)

## **5. UNHCR's protection strategy in Kosovo**

Having established its role to protect and assist internally displaced persons in Kosovo, what then could UNHCR do to protect the internally displaced in Kosovo during the height of hostilities during the summer and early fall of 1998, and what are the implications for UNHCR's role in the future? Clearly the task was daunting. The local authorities did not always let UNHCR or its implementing partners through checkpoints. In some cases the authorities confiscated humanitarian goods and took staff of humanitarian agencies hostages. Three Mother Teresa Society relief workers were killed under fire in August 1998.(35) The hostilities, in the form of shootings, shelling, and land mines, constituted security threats to humanitarian agencies, UNHCR included. Moreover, the internally displaced persons who had fled into the forest in the hills had often to move for security reasons when the fighting around them came closer. Therefore, it was not only difficult to trace them, but once found, they often had to move again, just when the convoy with humanitarian assistance was scheduled to arrive.

The strategy launched was simple and based on the importance of field presence.<sup>(36)</sup> Presence and close monitoring meant that UNHCR would have first-hand knowledge of the needs for protection and assistance, which was essential for coordinating the humanitarian response, as mandated by the Secretary General, Mr. Kofi Annan. Through close information sharing, the mandates of the various organizations involved were respected. ICRC, for example, was clearly mandated to address detention issues, among others, and UNHCHR and other human rights organizations were mandated to address issues of fair trial and human rights abuses. This coordination was important not only in order to avoid overlapping, but also to provide expertise for solving the problems at hand and, equally important, to maintaining credibility with the government authorities. To facilitate the information sharing and coordination, UNHCR set up an operations room in its office in Prishtina, where the latest information on the whereabouts of internally displaced persons, the security situation (on-going fighting, minefields), convoys, field visits and so forth were monitored.

Presence also meant that UNHCR staff could witness events, monitor the human rights situation, intervene when appropriate, or alert those who could intervene, all within its mandate as the lead agency for the humanitarian response. Being in the field, being eyewitness to events and consequences of events, UNHCR was able to report with credibility the atrocities as well as developments on the ground. The advocacy role was emphasized. With international staff in Prishtina, including a Public Information Officer who frequently made field trips and interviewed internally displaced persons, UNHCR could report what the organization itself had witnessed. These reports were then distributed through media contacts and the diplomatic community. The High Commissioner, Mrs. Ogata, as well as her Special Envoy, Mr. Nicholas Morris, addressed the Security Council on several occasions with regard to the situation in Kosovo.<sup>(37)</sup>

It was important that the international community be united in its reporting. This meant close information sharing among all organizations, both governmental and non-governmental. The reporting could be devastating for the authorities, and this, it was hoped, would make the authorities refrain from committing atrocities. Since the reporting was united, the authorities would be unlikely to expel all expatriates. UNHCR decided early on to be as vocal as possible, without compromising itself.

Through its presence and reporting, UNHCR and other organizations hoped to be able, at least to some extent, to stabilize the tense situation and provide protection from abuses for which the authorities would not like to have eyewitnesses. Alternatively, the authorities would think twice before directly harming foreign citizens. In other words, the expatriates would provide a human shield.

Presence, combined with interventions, provided for mitigation of human rights abuses, but at the same time it was important to make sure that the internally displaced persons, and the few remainees and returnees, understood that the international organizations could not guarantee their security. Often, groups of internally displaced persons approached UNHCR with a request to facilitate their return home, and UNHCR was then confronted with a dilemma. Even if the local Police Chief promised to guarantee security,

there were no firm guarantees that the Albanians would be safe from abuse or attacks by others. On the other hand, the winter was approaching and the internally displaced persons would *not survive* in the forest. There were no accommodation facilities in the towns to which UNHCR could refer them, due to the large numbers of displaced persons in need of shelter. By themselves, the internally displaced persons would have difficulties passing through checkpoints or the forest to the nearby towns, which in general were not attacked by the Serbian forces. So the choices were that UNHCR would advise the internally displaced to stay in the hills, where they would suffer exposure to both winter conditions and fighting or UNHCR would facilitate their potentially risky return to their villages. UNHCR at times decided to make visits to assess the levels of damage in the villages and arrange for meetings between the village leaders and police authorities. In the latter meetings UNHCR was only an observer, taking no active role in the discussions. If an agreement were reached among the police, authorities, and the villagers, UNHCR would assist with the return movement. Even in such cases, however, UNHCR was careful to say that it was not advising anyone to return to the home villages, nor would UNHCR be able to monitor the situation in the return village on a frequent basis, but if the villagers insisted, UNHCR would assist. Indeed, this was a very delicate decision to take.

In summary, presence could allow for enhancing the advocacy role of the international agencies through monitoring and reporting, enhancing needs assessment and interventions, as well as by providing "human shields."[\(38\)](#) However, during the spring, summer and early fall of 1998 there were many obstacles to establishing the kind of effective presence that could lead to providing protection and assistance in Kosovo. Each of the obstacles had to be overcome in turn.

The fighting seriously hampered UNHCR's access to internally displaced persons. The authorities effectively sealed off villages during the actual attack by the Serb armed or special police forces, and UNHCR was not allowed to pass checkpoints surrounding the village under attack. Despite frequent field monitoring in villages all around Kosovo province, UNHCR did not have the resources to have permanent presence in the villages. The agency instead established small field offices in three major cities, Mitrovica, Pec and Prizren, in addition to the main office for the province in Prishtina. Being denied access to areas where fighting took place, UNHCR could not by its presence be a human shield or be an eyewitness to serious abuse, nor reach the internally displaced persons with necessary humanitarian aid. Moreover, it was difficult to predict where the attacks would take place and get there beforehand, and due to the precarious security situation, UNHCR had a self-imposed curfew allowing field trips to villages only during the day. However, as soon as the attack was over, UNHCR could access the area and search for the villagers, who often had taken shelter in the nearby forest. In addition to the risk of being caught in a crossfire or under attack, there were also mines. The first mine accidents involving international monitors and aid workers took place in August and September 1998. As a result, movements were further restricted in more mine-prone areas, making access to the internally displaced, particularly those in the open, more difficult. The same day the author arrived in Kosovo, at the end of September, the ICRC team drove on a mine, leaving one Albanian doctor dead and three other passengers

seriously injured. The precarious security situation can be considered as the main obstacle impeding UNHCR, humanitarian organizations, and international monitors from providing protection and assistance, and could only be overcome once there was a cease fire agreement.

As a result of the fighting, the situation changed rapidly on the ground, requiring constant reassessment of the necessary responses and new strategies. New flows of internally displaced persons had to be located and given assistance. Often the internally displaced moved overnight in response to the fighting, thus making it difficult to find them. Convoy routes were constantly revised as new and more pressing needs elsewhere were identified. Networks got disrupted and then regained their links and strength over and over again. Close coordination and information sharing among all organizations was required to have up-to-date information on the actual situation on the ground, as well as the capacity to analyze the situation, take immediate and sound decisions, and react on short notice.

Initially there was a lack of available financial, material, and human resources. However, the response to the Inter-Agency Appeal and other donor responses brought additional funds for both relief items and the logistical support needed. The existence of warehouse facilities and trucks in each of the four towns with UNHCR offices, as points of departure for convoys, made it possible to increase the delivery points and therefore reach more beneficiaries, as well as to reroute convoys on short notice to those in particularly dire need. Relief goods were also brought in from Belgrade directly to warehouses of the Mother Theresa Society and government distribution points, which were established in smaller towns. "Flooding the area with international eyewitnesses" requires a large number of persons. Moreover, the police, the military or the KLA harassed humanitarian agency national staff. It was therefore essential to provide expatriates as convoy leaders to protect the local drivers. By early fall, however, more expatriates and more organizations had begun to arrive, but, unfortunately, with an emphasis on assistance rather than protection.

Coordination is key when the actors are many, and more new organizations were coming in. By mid-September there was closer coordination, including regular inter-agency meetings on both sectoral and cross-sectoral bases. As many organizations needed support from UNHCR, the agency could influence project deliveries in particular if they were linked to funding from UNHCR. The coordination was crucial in order to fill the gaps and avoid duplication both in terms of regional areas and sectors to be covered. Through this reinforced coordination, combined with more organizational capacity in terms of both human and other resources and the firmer role UNHCR could play, the most capable organization could be chosen to take responsibility for the various sectors concerned.

Despite the additional resources, both material and human, the problem of access remained, not only because of the fighting but also since UNHCR was not in a position to enforce its access to those in need, or to ensure respect for interventions on behalf of the persons concerned. The lack of enforcement is a highly political issue, and therefore

outside UNHCR's mandate. Indirectly, UNHCR can—through its reporting—influence those mandated to enforce compliance with the Security Council Resolutions, according to which international humanitarian organizations are to be given free and unimpeded access.(39) Ultimately however, the decision to enforce compliance depends on the political will of the Security Council and NATO member states.(40)

The main obstacle to providing protection to the internally displaced was then, and still was at the end of 1998, the lack of political will to find a political solution. Overcoming some of the most severe problems, such as the fighting and security concerns, was entirely dependent on a political solution. A cease-fire is a temporary solution, and only a political solution provides for a durable solution to the plight of the internally displaced.

Fortunately, there were also factors that facilitated UNHCR's efforts to coordinate the humanitarian response. First, UNHCR had been closely following the events since the opening of its office in Kosovo in late 1992, and therefore had established contacts with the Serb authorities as well as with the Albanian community. Second, there was already an established network of both local and international organizations, so the new organizations entering the scene could tap into existing structures. This was possible since the increased funding was also used to increase the capacity of these existing structures and networks so they could cope with the new demands.

## **6. How successful was UNHCR in its efforts to protect internally displaced?**

All things considered, how effective was the protection and assistance provided? The first question is how to measure the success of protection in terms of preventing displacement and facilitating return, the ultimate goal of the activities on behalf of internally displaced persons. Should an operation be evaluated by comparing it with a best case scenario or a worst case scenario? Or should one simply assess it against more realistic goals for the operation, that is, to be present on the ground, reporting, intervening, delivering assistance, but not against such goals as providing security guarantees, which only a government or parties to a conflict can do? This author believes that the latter should be subject to evaluation.

There are always high expectations of, as well as considerable skepticism about, what UNHCR can in fact do for internally displaced persons in a conflict situation. Notwithstanding its ability to provide humanitarian assistance, UNHCR has not in the past been able to demonstrate that it could prevent displacement in critical moments.(41) Some argue that attempts to provide protection and assistance to internally displaced persons have been detrimental to the ultimate aim of protection, by giving neighboring countries a pretext to close their borders to asylum seekers, and thereby forcing internally displaced persons to remain internally displaced.(42) Even UNHCR itself acknowledges that, traditionally, it has played a limited role in the protection of human rights and physical security, and that, in fact, most of the displaced rely on their own survival skills, rather than on foreign protection and assistance.(43) This self-criticism is soundly based

in the fact that humanitarian action, including attempts to provide protection, cannot solve the political problems inherent in most conflict situations.

Facts have been reported and the High Commissioner and her Special Envoy have briefed the Security Council and key governments in other international fora. UNHCR has held regular meetings with media and the diplomatic community in Geneva. The reporting verified the extent of the problem in Kosovo portrayed by the media and human rights organizations, and the combined efforts of all involved resulted in an international effort to put in place a cease-fire during which a political solution could be sought. On the ground, the Serbian government was very worried about the reporting done by the UNHCR as well as by other international organizations and the media.<sup>(44)</sup> This could be an indication that the Serbian authorities did take into consideration the international presence in the conflict area.<sup>(45)</sup> Therefore, it could be argued that UNHCR, together with the other actors, might to some degree have prevented further displacement and grave abuses of human rights; that is, the situation could have been even worse.

Over time during the late summer and early autumn of 1998, there were improvements in the provision of protection and assistance, as more international staff and more resources, combined with better coordination, enhanced the quantity and quality of the response and increased the ability to reach those in need. The additional UNHCR staff as well as the three new offices in major towns were crucial, but could have been in place earlier on. This was important since enhancing access to those in need (the humanitarian response) can serve as protection, even in the sense of providing limited physical and legal protection. Kosovo is a good example of how international presence provides for an enhanced feeling of security. The Kosovo Diplomatic Observer Mission (KDOM) noted after the cease-fire and subsequent troop withdrawals (as per the so called Holbrooke-Milosevic agreement) in late October 1998, that returns to villages they frequently patrolled reached 70 to 100 percent of the displaced population.<sup>(46)</sup> On the other hand, the places chosen to be patrolled were those to which returns were taking place. During her visit to Kosovo in the autumn of 1998, the author met a group of former internally displaced persons who had returned in July 1998 with UNHCR assistance, on the strength of a guarantee from the local police chief. In September 1998, this group of returnees was spared further harassment when their village was used as base for a Serb military assault on three neighboring villages. Some of the other villagers fled again. A few weeks later, very soon after the Holbrooke-Milosevic agreement, 60 percent of the original village population had either remained or returned.

Still, mere presence is no guarantee of security and protection. Many international staff of the organizations present were worried that their presence would invoke a false atmosphere of security. Others argued that the Kosovars, especially those in hiding in the forests and hills, had no illusions about the degree of protection that international presence could provide. It is clear that unarmed UNHCR officials cannot prevent massacres or killings, when indeed that is the main aim of the government. At the height of the conflict, the international community was barred from entering areas of actual fighting, and therefore was not able to provide a "human shield" for the internally displaced. The organizations could only watch the shelling of villages from a distance.

Moreover, knowing that a military solution was sought, UNHCR could not put its staff at risk.

## **7. The situation at the end of 1998**

In early September 1998, UNHCR estimated that approximately 50,000 persons were living outdoors. By mid November 1998 there were no internally displaced persons out in the forest, freezing in the open.<sup>(47)</sup> This development, however, cannot be attributed to UNHCR, but to the shuttle diplomacy undertaken by Mr. Holbrooke, which resulted in a commitment by President Milosevic on 13 October 1998 to comply with Security Council Resolution 1199 of 23 September 1998. This resolution called for a cease-fire, withdrawal of police and military forces, return of refugees and internally displaced persons to their homes, and unhindered access for the humanitarian organizations and supplies, among other conditions. Once the police and military pulled out from an area, the returns to that particular area started.

Although no internally displaced persons remained out in the open at the end of 1998, few were able to return to their homes. UNHCR estimated that 175,000 were still displaced, staying with family, relatives or friends in villages and towns other than their own. The main obstacle to return was the security situation, according to those still displaced at the end of 1998. Many, especially those coming from areas where there was Serb police presence, remained worried for their safety. The cease-fire was indeed fragile, and there were numerous instances of attacks between the Serb police and KLA or other Albanian militia groups. The most serious threat against the cease-fire took place in mid-December, when Serb border guards killed 31 and captured nine ethnic Albanians crossing over the border from Albania, just one day after six Serb youths had been killed in a cafe in the southern part of Kosovo.<sup>(48)</sup> Several returnees were killed by booby-traps and landmines that were found in homes, yards, schools, and elsewhere.<sup>(49)</sup> In some cases, internally displaced persons tended their fields and repaired their homes during daytime, but withdrew to safer areas for the night. Indeed there were reports of police harassment, such as spot checks, in which buses were stopped, luggage checked, and men separated from women and children, interrogated, beaten up and detained.<sup>(50)</sup> In one case a whole village of 2,400 people was held hostage without food for 24 hours while the Serb forces searched the houses for weapons.<sup>(51)</sup> Although UNHCR normally is not following up on general human rights issues, such as arbitrary harassment and detention by the police, in cases where internally displaced persons and refugees are targeted for such actions, it is of UNHCR's concern as well.

These events not only highlight the need for continued monitoring, reporting and advocacy, but also the need for an amnesty law as the first step towards an atmosphere of confidence, viable cease-fire, and return. In accordance with the Holbrooke-Milosevic agreement, the Government immediately announced that no combatant who had laid down his weapons would be prosecuted. However, the Serbian Minister of Interior stated somewhat later that an actual amnesty law could be discussed only once a political

settlement had been reached, a census and elections held, and new organs of local government formed.(52) Indeed many ethnic Albanian men had been arrested, charged with "terrorist acts," and convicted after the Holbrooke-Milosevic agreement.(53) In line with its protection functions on behalf of refugees, returnees, and internally displaced persons, UNHCR is pressing the government for an amnesty law.

Because of the fragile situation at the end of 1998, UNHCR did not promote repatriation from neighboring countries and republics, although the agency was prepared to facilitate the return of those who voluntarily approached UNHCR for such assistance. In particular, lawlessness and banditry in northern parts of Albania made some refugees decide to return to Kosovo, rather than be relocated elsewhere in Albania. The latter was an option UNHCR was pursuing with the Albanian authorities by identifying and rehabilitating possible temporary accommodation in safer areas inside Albania, where the refugees could receive the necessary assistance. UNHCR also pleaded that Western Countries not send back rejected asylum seekers, a plea to which at least some countries indicated they would adhere.(54)

The armed conflict has had disastrous consequences in the villages. By late November 1998, UNHCR estimated that 75,000 persons had returned to their villages, but few were living in their own houses. At that time UNHCR also assessed the destruction in 240 out of the 350 villages in Kosovo. Only around 90 of these 240 were unaffected by the fighting, while the remaining 150 were damaged to various degrees. On average, the houses in one third of these villages were totally destroyed, nearly another third were heavily damaged and in need of major repairs, and only 40 percent were intact or habitable with small repairs needed. UNHCR distributed emergency shelter repair kits, which included plastic sheeting, nails, and other materials with the idea of enabling the returnees to repair at least one habitable room. UNHCR has also coordinated with the Yugoslavian government, which is obliged under Security Council Resolution 1199 to provide for building material, such as tiles, windows, bricks. Some of these had been delivered by the end of 1998.

Entire components of the physical and social infrastructure of Kosovo collapsed during the conflict in the province: electricity was cut off, schools destroyed, the parallel health system of local medical clinics interrupted. In fact, even before the armed conflict erupted, the general health situation was very precarious, and tens of thousands of children had never been immunized. The collapse of the infrastructure has been considered the second main obstacle to return, according to the displaced Kosovars. UNICEF, together with a number of NGOs, has implemented projects to improve the health situation, rebuild schools and provide for school materials, among other projects. Reconciliation measures have been incorporated in some of these projects. The toll on agriculture was also considerable: livestock have been killed, farming equipment destroyed, landmines found on farmland. The displaced returned too late for the planting season, and in many cases the security situation or displacement did not allow harvesting during the summer and fall. Therefore seeds for the spring planting had to be provided by international organizations.



All things considered, the needs for both food and non-food assistance were enormous. During the last week of November 1998, UNHCR was able to coordinate 120 trucks to 100,000 beneficiaries (internally displaced persons, returnees and host families) in 21 locations. It is also essential to remember that the internally displaced persons, returnees, and remainees need support to cope with their experience of displacement, including adjusting to new roles within the family and community.<sup>(55)</sup> In this regard UNHCR was coordinating projects and networks to reach the most vulnerable, emphasizing the existing local networks, which include a taskforce comprising the Serbian public health sector, the Albanian health sector, and NGOs. However, many Kosovo Albanians, and particularly children, were without identity documents because of their reluctance to register with Serb authorities. The lack of identity documents can pose difficulties in registering for assistance (especially assistance or services through government structures) as well as in returning to Kosovo from Montenegro or neighboring countries. This is yet another issue that has to be solved with the Yugoslav authorities, as they are still—at least formally—in charge.

## **8. The roles of ICRC, UNHCHR, and ICTY**

As earlier noted, the International Committee of the Red Cross (ICRC) played an important role during the actual conflict as well as after the cease-fire.<sup>(56)</sup> The needs for humanitarian assistance, tracing of abducted persons, access to and negotiations for release of hostages and prisoners of war, and so forth, still prevail. The UN Security Council's Resolution 1199 highlights the role of ICRC, in particular with regard to return of displaced persons and refugees as well as access for the organization to deliver humanitarian supplies.

By late 1998, the United Nations High Commissioner for Human Rights (UNHCHR) had finally signed a memorandum of understanding with the Yugoslav government and was expected to establish an office in Prishtina from which to monitor human rights abuses, and undertake appropriate interventions. The UNHCHR's main focus was to be on monitoring, training of international monitors as well as of local and national authorities, (notably the police, judiciary and administration) and capacity building of local and national human rights institutions.<sup>(57)</sup> Among other priorities, there was seen to be an urgent need to establish an Ombudsman institution. To fulfill these needs, however, the UNHCHR would desperately need more resources; as of late 1998, they were still awaiting more staff and equipment, and they still had only one vehicle for their activities covering the entire country.

Other organizations remained similarly constrained: The International Criminal Tribunal for Former Yugoslavia (ICTY) was still awaiting visas for their investigators, despite the obligation of the Yugoslav government to cooperate with the Tribunal in accordance with Security Council Resolutions. Despite the fact that the Statute of the Tribunal clearly states its competence to cover crimes against humanity that have taken place in the entire Former Yugoslavia, the Yugoslav government disputed the mandate of ICTY in Kosovo.

It would be of utmost importance for an atmosphere of trust and reconciliation that those who have committed atrocities and crimes against humanity be investigated, charged, and punished as appropriate.

## 9. The role of OSCE

The Holbrooke-Milosevic agreement, which was announced 13 October 1998, added new elements for the protection of the internally displaced persons, a number of which involve the Organisation for Security and Cooperation in Europe (OSCE).<sup>(58)</sup>

1. OSCE was to provide *ground verification*, with a force of 2,000 to verify the compliance of all parties in Kosovo with UN Security Council Resolution 1199 of 23 September 1998. In addition, OSCE was to supervise elections in Kosovo and to maintain a close liaison with the authorities of all parties and accredited organizations;
2. NATO was to provide *aerial verification* of the government's compliance with the above Security Council Resolution 1199; and
3. President Milosevic agreed upon a *political framework*, within which a political settlement would be reached with the Kosovo Albanians. This settlement would include a broad self-government in Kosovo, elections to a Kosovo Assembly and an amnesty provision.

OSCE had to leave the Federal Republic of Yugoslavia in 1993 when its mandate for monitoring the situation in Kosovo, Sandjak, and Vojvodina was not extended by the Yugoslav government as a result of the suspension of the membership of the latter in OSCE. During the entire spring and summer of 1998, as the situation in Kosovo worsened, the OSCE had tried to negotiate a new return to the Federal Republic of Yugoslavia, but until October 1998, all negotiations were in vain.<sup>(59)</sup> With the Holbrooke-Milosevic agreement in place, OSCE was quick to react and agree to its new task.<sup>(60)</sup>

The agreement between OSCE and the Yugoslav government was signed on 16 October 1998 for a one year period and relates to political and human rights issues as well as to humanitarian issues.<sup>(61)</sup> With regard to the political or human rights issues, it was agreed that the OSCE Kosovo Verification Mission (KVM) would be able to travel throughout Kosovo to verify the maintenance of the cease-fire by all elements and to investigate reports of cease-fire violations. It was also agreed that the KVM would be able to accompany police units as well as border control units in Kosovo as they perform their normal roles. More significantly, the Mission Director would, once the political settlement defining Kosovo's self-government had been achieved and implementation was to begin, assist in areas such as election supervision in order to ensure fairness and openness of the elections, and the establishment of Kosovo institutions and police force development. KVM would also receive periodic updates from the relevant authorities concerning eventual allegations of abusive actions by military or police personnel as well

as updates on the status of disciplinary or legal actions against individuals implicated in such abuses.

With regard to OSCE's role in humanitarian issues, it was agreed that the KVM would,

...to the extent possible, assist UNHCR, ICRC and other international organizations in facilitating the return of displaced persons to their homes, the provision of facilitative and humanitarian assistance to them by the FRY, Serbian and Kosovo authorities as well as the humanitarian organizations and NGOs.(62)

KVM would also verify the level of co-operation and support provided by the Yugoslav government and its entities to the humanitarian organizations and accredited NGOs. The Yugoslav government agreed to give these organizations support in facilitating procedural requirements such as issuance of travel documentation, expedited customs clearance for humanitarian shipments and radio frequencies. Whenever it deemed appropriate, the KVM would intervene with the authorities on behalf of humanitarian organizations. The agreement mentions specifically assistance to ICRC in getting access to detainees.

The question remained, however, whether OSCE would be capable of responding in an effective way, and whether it had the necessary knowledge, manpower, and material resources and capabilities. There was indeed skepticism, since the situation was politically very complex.(63)

At the end of 1998, OSCE was still a rather new organization, and this would be its first large mission. The largest to date had been the one to Croatia, with nearly 250 monitors on the ground. In Kosovo the ceiling was raised to 2,000 international verifiers,(64) with a total of perhaps up to 5,000 local staff. The purely administrative challenge was huge: where to find office premises and housing for all the monitors in a region mostly destroyed by the armed conflict, as well as quickly get funds for the administration and get the equipment needed on the ground to be fully operational. Initially the idea was to have an office or team in each municipality, but that was too ambitious. Instead, it was envisaged that there would be five regional centers and field offices in 28 municipalities, targeting areas where the need for a permanent, deterrent presence would be more significant.

Although within 10 days of signing of OSCE's agreement with the Yugoslav government, the OSCE member states had already pledged around 1,600 persons, it appeared that the target of 2,000 verifiers might not be met. Getting the verifiers on the ground and training them would take some time. Despite the UN Security Council's push for a rapid deployment of the verifiers, they basically started to arrive only in early December 1998 and were expected to reach full strength only by the end of January 1999.(65) In addition to the slow start, there were concerns that many verifiers would not have the necessary background knowledge to be immediately effective upon arrival. Although a core group was to be recruited from the Kosovo Diplomatic Observer

Mission (KDOM) and OSCE missions in Bosnia and Croatia, many would be participating in their first OSCE mission. Therefore many would not be familiar with the organization or the history of the region concerned, nor would many have worked in a conflict prone area. On a positive note, no problems of finding interpreters were expected, as there were many Kosovars with language and other skills. The international organizations had brought excellent job opportunities to the province.

The security of OSCE's staff remained an important concern.(66) Although a core group of the verifiers was former military, all verifiers were unarmed. Furthermore, unlike in Bosnia and Herzegovina, they would not be protected by a military force. The NATO airplanes taking part in the Air Verification Mission (AVM) could not provide protection on the ground on a day-to-day basis. Moreover, the NATO Extraction Force (XFOR) based across the border in Macedonia was far away and had a specific mandate to evacuate the verifiers in Kosovo, in case the situation so warranted.(67) Although, according to the US Kosovo Diplomatic Observer mission (KDOM), the cease-fire was generally holding at the beginning of December 1998,(68) there had been sniping and shootings. Therefore it was likely that the verifiers would find themselves in a cross fire, threatened or targeted by the warring parties, as happened on several occasions to the US KDOM.(69) In order not to be mistaken for Serb police or Serb military, the KDOM and OSCE verifiers were driving around in orange colored vehicles. The issue of armed bodyguards was raised with Serb authorities, but as expected by some, was rejected by the Serbs. Landmines and booby traps were present too, easily hidden in the snow, not only making conditions hazardous for staff, but also potentially hindering access to returnees and internally displaced persons in more remote areas that are mined.

The main problem for OSCE at the end of 1998 was to clarify its mandate, and from there to work toward a political solution. However, the guidelines were lacking, and the questions many. What were the details of the agreement brokered by Mr. Holbrooke with regard to the cease-fire? At the end of 1998, there did not seem to be a clear understanding of the requirements for the withdrawals of the Serbian Army and Special Police Forces, particularly in terms of numbers and locations involved. The KVM is to verify the compliance with Security Council resolution 1199, which orders "withdrawal of security units used for civilian repression" without any further details in this regard.(70) In case of non-compliance, were there any enforcement mechanisms that KVM could use? There was clearly confusion about OSCE's mandate to intervene. The UN Secretary General had indicated that the KVM was not mandated to enforce compliance, nor to respond to local disturbances and hostilities, nor to enforce access by the humanitarian organizations.(71) This interpretation would be bound to frustrate the KVM. The Head of the KVM, Mr. William Walker, explained to the media in late November 1998, to the dismay of the Serbian authorities, that the KVM would be proactive in its efforts to prevent human rights abuses and prepare elections.(72) However, whether or not the KVM members were proactive in their role as verifiers, there were signs that their mere presence would help internally displaced persons to overcome their fears of returning. As earlier mentioned, in areas where KDOM regularly had been patrolling, the return rate was 70-100 percent. In that sense, KVM would protect the internally displaced from continued displacement. However, being unable to

enforce compliance with the Security Council resolutions, the KVM would not be able to prevent atrocities and renewed displacement, if indeed the parties to the conflict decided to renew the full scale armed conflict. Enforcement was entrusted to NATO, which remained committed to enforce the compliance of the Security Council Resolution 1199, as its threat of bombings remained in force at the end of 1998. On the other hand, a question mark remained: that of the threshold for activating such an order.

The questions related to the political framework were equally many. OSCE is to supervise elections in Kosovo, but which were the elections to be arranged? Which were the bodies to be elected and what would be their relationship to the Serbian or Yugoslav representative bodies? Again, OSCE's agreement with the Yugoslav government is vague, referring only to a mandate of the KVM "to supervise elections in Kosovo to ensure their openness and fairness in accordance with regulations and procedures to be agreed."<sup>(73)</sup> Which police force was to be trained: a Serb, an Albanian or a joint police force? What were the institutions to be established, on what ethnic basis were they to be established, and what would be their competence? All these were extremely important questions because a new civic society, with a legitimate government and a functioning rule of law that can ensure the respect for human rights, had to be built from scratch.

With whom should OSCE negotiate? This was another key question, as the Kosovo Albanians were divided, and their parallel parliament disputed by the opposition to Mr. Ibrahim Rugova, the moderate leader of the Democratic League of Kosovo, whose hopes to form a government earlier in 1998 had failed.<sup>(74)</sup> The international community representatives, OSCE among them, dealt mainly with Mr. Rugova, rather than with those actively involved in the conflict—that is, the Kosovo Liberation Army (KLA). Moreover, the parties were wide apart: the KLA demanded independence, but could consider a three year transitional period with the same status of a republic as Montenegro and Serbia, while the Yugoslav government would maintain Kosovo as a part of Serbia, albeit with a kind of self-rule. Therefore, the shuttle diplomacy of the US Ambassador to Macedonia, Mr. Hill, who had been entrusted with trying to find a political settlement between the Albanians and the Serbs, had not led to even an interim agreement by the end of 1998.<sup>(75)</sup>

The large OSCE mission also posed a challenge to UNHCR, which was entrusted with the humanitarian response, including facilitating the return of the displaced persons to their homes. On the other hand, with the Holbrooke-Milosevic agreement OSCE had become the lead political organization. It would be necessary for the two organizations to work very closely together while still maintaining the fine line between political and humanitarian action.<sup>(76)</sup> Both mandates are crucial for solving the plight of the internally displaced persons.

## **10. Recommendations**

[Editor's note: These recommendations were written in January 1999, before the collapse of the cease fire and the commencement of NATO air strikes in March. The recommendations are retained here in their original form to illustrate what options appeared viable during the winter of 1998-1999.]

Protection and assistance to internally displaced persons in Kosovo continued to be a challenge to the international community, including UNHCR, at the end of 1998. The real challenge was indeed to find a political solution, for which humanitarian action cannot be a substitute. On the contrary, humanitarian action, while seemingly alleviating suffering of some, does have an impact on the course of the conflict, and could sustain the conflict rather than bring it to an end.[\(77\)](#)

*Recommendation No. 1*

*Full compliance by all parties to the conflict with the UN Security Council Resolutions and restoration of respect for human rights with immediate effect.*

*Recommendation No. 2*

*A just, fair and sustainable political settlement has to be agreed upon by all parties immediately.*

Such a settlement preempts a full compliance with the UN Security Council resolutions, 1199 and 1203 in particular, including withdrawal of forces and a firm cease-fire with no attacks and no provocation, however limited in scope. These are preconditions for creating a climate of confidence and trust, during which further negotiations for a final political settlement can be held. It is similarly crucial to engage all various parties to the conflict on an equal basis in the dialogue and negotiations for compliance, cease-fire, and final political settlement. International mediators cannot choose their interlocutors according to the outcome the international community would like to see, but have to consider the complex situation on the ground with regard to structures of power and authority. Nor should the international community attempt to impose a solution of their liking, but rather should be attentive to the wishes of the parties concerned, so that the mediation facilitates reaching an agreement. The parties themselves have ultimately to take the responsibility for confidence building and their settlement. The peace broker who imposes a particular solution does not have the necessary backing of the people concerned, nor the means to enforce such an agreement if the parties fail to comply.

*Recommendation No. 3*

*The right of all people to seek and enjoy asylum has to be respected by all governments.*

The fact that there are efforts to protect and assist internally displaced persons, even facilitating their return to their home villages, albeit rarely to their own houses, does not mean that there is adequate protection offered by the government concerned, UNHCR, or other authorities. As the example of Kosovo has shown, when a cease-fire is extremely

fragile, neither UNHCR nor other international organizations can prevent violations against human rights if the parties to the conflict wish to engage in them.

*Recommendation No. 4*

*All agencies involved in the efforts to provide protection and assistance to those affected by the conflict in Kosovo (internally displaced persons, returnees, remainees and refugees alike) have to be given full support by the international community, including funding for projects, both short-term and long-term, staff and equipment. In particular, the remaining OSCE verifiers should be sent to Kosovo with immediate effect and given full administrative support, training, and clear terms of reference.*

The donor community should respond to the Inter-Agency Appeal for the humanitarian response in Kosovo, as well as other appeals, so that the activities so far undertaken can be carried forward and new ones commence. The needs for assistance and protection continue to be enormous. Resources are also needed for training and coordination of activities to enhance the protection and assistance capacity of all agencies involved. The UNHCHR should be allocated the staff and equipment it needs to be fully operational. Furthermore, additional political support is needed from the international community to support the ICTY in its request for visas for its staff to travel to Kosovo to investigate the alleged atrocities. It is of utmost importance for confidence-building, as a basis for successful negotiations for a political settlement, that those who allegedly have committed crimes against humanity and other atrocities be investigated, charged, and punished as appropriate.

*Recommendation No. 5*

*The agencies in Kosovo should continue their monitoring, reporting, and advocacy work on the human rights and humanitarian situation, and develop joint reporting mechanisms and strategies, giving due consideration to the mandate of each organization.*

All agencies, whether relief, development, humanitarian, or human rights organizations, have key information for those agencies whose mandate is specifically linked to human rights. Human rights organizations should be included in the coordination network of the agencies involved in the humanitarian response. It is important that all information is gathered systematically and in a coordinated manner, in order to support the efforts to enhance the overall human rights situation. This also requires that the international verifiers, monitors and relief workers, to the extent possible, are familiar with human rights and human rights monitoring, and will be adequately trained upon arrival. UNHCR, for its part, should have a sufficient number of staff members with a background in protection of refugees and internally displaced persons, in place in Kosovo. Considering a final political settlement, respect for human rights and international humanitarian law has been used as a measure of legitimacy of the parties concerned in many conflict situations.

*Recommendation No. 6*

*Capacity building of local structures should be an integral part of all activities.*

An emergency situation disrupts all local structures and networks. It is important to incorporate capacity building early on as part of all activities. In a complex political situation, such as the one in Kosovo, all agencies should coordinate together carefully. The political settlement will define some of the institutions, but a lot can already be done with regard to existing local humanitarian and human rights organizations, social and professional networks, police, judiciary, administration, and so forth.

*Recommendation No. 7*

*Coordination between all agencies as well as between agencies and the authorities of all sides should be enhanced.*

Coordination is key to any operation in a complex emergency situation. The two lead agencies, UNHCR for the humanitarian response and OSCE for verification of compliance and other political issues, have to coordinate closely. The establishment of Liaison Officers and training are already enhancing the cooperation between the two, but it is equally important to establish new functional coordination structures among all agencies, considering the new situation with two lead agencies. On the other hand, as the mandates of the two lead agencies are different, albeit complimentary, it would be necessary to raise awareness of these differences among both other organizations and the public. Equally crucial is cooperation among all agencies as well as among the agencies and the authorities on all sides.

## **11. Conclusions**

The case of Kosovo during 1998 illustrates that protection of internally displaced persons can take many forms and involve many actors, even when the government concerned is unable or unwilling to take responsibility. In Kosovo during this period, UNHCR set out to coordinate the protection and assistance activities, and with increased material and human resources the agency's protection capacity started to increase even before the Holbrooke-Milosevic agreement. It is evident that UNHCR's presence (and that of other international organizations), reporting, humanitarian convoys, and other activities provided a limited degree of protection for the internally displaced persons. It is equally important to note that protection can be successful only when the teamwork within and between all organizations is functioning, when resources are forthcoming, and when there is consent and cooperation from the various authorities on all sides. Moreover, protection and assistance to internally displaced persons should be a part of an overall strategy, which includes security, human rights, and most importantly, a political solution. Foremost, humanitarian action cannot substitute for a political solution, and continued physical security can be guaranteed only once there is a fair and just political settlement. The international organizations do not have the means to prevent atrocities if the parties to the conflict decide to embark on such a path. Nor can the humanitarian organizations,



UNHCR among them, be blamed for not dealing with the root causes of the conflict, since that would be an overestimation of their mandates, as well as of their potential to address political issues.

The cease-fire agreement reached in October 1998 did not in itself provide for a settlement or lasting peace, nor did the presence of the KVM, UNHCR, or other international organizations do so. At the end of 1998 there were estimates among US diplomats that there would be only a one to two month "window of opportunity" during which to achieve a political settlement that could both satisfy the Albanian majority and protect the Serb and other minorities. Regrettably, such a settlement was not achieved.

The key lesson from the Great Lakes operation in 1996 is the following:

Continued international failure to tackle the political and security dimensions of the crisis, combined with sustained use of humanitarian assistance in the resultant policy vacuum, undermines the credibility, reputation, and long-term viability of humanitarian action, to deleterious consequence for the lives and livelihoods of those whom humanitarian action is supposed to protect and assist.<sup>(78)</sup>

The key lesson from Kosovo remains to be drawn.

#### NOTES

1 "Albanian Refugees Trapped on Road in Kosovo." *The New York Times*, September 10, 1998.

2 Opening Statement by the United Nations High Commissioner for Refugees at the Forty-ninth Session of the Executive Committee of the High Commissioner's Program, Geneva, Monday, 5 October 1998.

3 E/CN.4/1998/53/Add.2 Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, including the Question of the Programme and Methods of the Work of the Commission. Human Rights, Mass Exodus and Displaced Persons. Report by the Representative to the Secretary-General submitted pursuant to Commission Resolution 1997/39. Addendum. Guiding Principles on Internal Displacement. See also Roberta Cohen and Francis M. Deng *Masses in Flight. The Global Crisis of Internal Displacement*. Washington DC : Brookings Institution Press., 1998. Appendix "Guiding Principles", page 305.

4 *The State of the World's Refugees: A Humanitarian Agenda*. New York: Oxford University Press, 1997, page 99.

5 Cohen and Deng, *Masses in Flight. The Global Crisis of Internal Displacement*, page 75. The authors, however, take a rather hesitant stand on this point.

6 Commission on Human Rights, Resolution 1997/39, among others.

7 E/CN.4/1996/52/Add.2, paragraphs 414-415.

8 The guiding principles are also intended for practical guidance and as an instrument for public policy education and awareness raising. E/CN.4/1998/53/Add.2, page 4, see Annex for full text of guidelines. The Guiding Principles are also published in Cohen and Deng, Appendix "Guiding Principles", pages 305-316.

9 Roberta Cohen considers the guidelines as being of "immense practical value in providing a yardstick for monitoring the treatment of IDPs" as well as contributing in the longer term to the creation of a moral and political climate in which they could be considered customary international law. Roberta Cohen, "Recent Trends in Protection and Assistance for Internally Displaced People", in *Internally Displaced People: A Global Survey*, Global IDP Survey by the Norwegian Refugee Council, ed. J. Hampton, page 3. The political climate for a specific binding international convention on internally displaced persons is not yet there, as in general there is a danger that states at this point of time would settle for minimum standards rather than enhance existing rights. Pirkko Kourula shares this view, in *Broadening the Edges: Refugee Definition and International Protection Revisited*, The Hague, page 191.

10 Dennis McNamara, Memorandum on "Guiding Principles on Internal Displacement", UNHCR, 22 July 1998.

11 The International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights respectively of 1966, ratified by FRY 1971, with Protocol I recognizing individual complaints of 1966 ratified by FRY 1990; The International Convention on the Elimination of All Forms of Racial Discrimination of 1965 ratified by FRY 1967; The Convention Against Torture and Other Cruel Inhuman or Degrading Treatment of 1984 ratified by FRY 1991; Convention on the Prevention and Punishment of the Crime of Genocide 1948 ratified by FRY 1950; among others <http://www.unhchr.org/>.

12 The Geneva Conventions of 1949 ratified by FRY 1950 and the two additional Protocols of 1977 ratified by FRY 1979. (<http://www.icrc.org/>).

13 The ICTY has the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991, according to its Statute, Article 1. <http://www.un.org/icty/basic/>. The Security Council in its Resolution 1160 of 31 March 1998 urged the Prosecutor of ICTY to gather information about violence in Kosovo, noting that the authorities of FRY have an obligation to cooperate with the Tribunal. S/RES/1160(1998). Again in its Resolution 1199 of 23 September 1998 the Security Council called all concerned to cooperate fully with the Prosecutor of the ICTY. S/RES/1199(1998).

14 For violations by both parties, see Situation of human rights in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia, Note by the Secretary-General under Human Rights Questions: Human Rights Situations and Reports of Special Rapporteurs and Representatives, A/53/322 of 11 September 1998; Amnesty International reports *Yugoslavia. Federal Republic of Yugoslavia. A Human Rights Crisis in Kosovo Province*. Document Series A: Events to June 1998 in parts EUR/32-35,46/98, and Document Series B: Events since June 1998 in parts EUR/54,57/98; as well as Human Rights Watch reports, such as *Federal Republic of Yugoslavia. Human Rights Watch World Report 1999* <http://www.hrw.org/worldreport99/europe/yugoslavia.html> and *Federal Republic of Yugoslavia: Humanitarian Law, Violations in Kosovo*. Human Rights Watch. October 1998, Vol.10, No.9 (D).

15 For a discussion on various alternatives for institutional arrangements in this regard, see further for example Cohen in "Recent Trends in Protection and Assistance for Internally Displaced People", pages 5-6, Cohen and Deng in *Masses in Flight: The Global Crisis of International Displacement*, pages 185-186 as well as Deng, "Flocks Without Shepherds: The International Dilemma of Internal Displacement" in *Rights Have No Borders. Internal Displacement Worldwide*, ed. Wendy Davies, Norwegian Refugee Council/Global IDP Survey, 1998, pages 6-7.

16 When UNHCR was requested by the Netherlands in 1993 to do so, the leadership of the organization as well as the Executive Committee (EXCOM) hesitated. Cohen, "Recent Trends in Protection and Assistance for Internally Displaced People", page 6. The issue arose again in 1997 in connection with the reform plans for the UN, initiated by Secretary General Kofi Annan. This time UNHCR indicated a more positive response, although it was not yet willing to take over the responsibility for all IDPs. Ibid., page 6 and Cohen and Deng, *Masses in Flight. The Global Crisis of Internal Displacement*, page 170.

17 Article 9, qualifying with "within the limits of the resources placed at his disposal".

18 There are a number of General Assembly Resolutions on this issue. The most important one is the GA Resolution 48/116 of December 1993, which "Reaffirms [the General Assembly's] support for the High Commissioner's efforts, on the basis of specific requests from the Secretary-General or the competent organs of the United Nations, and with the consent of the concerned State, and taking into account the complementarities of the mandates and expertise of other relevant organizations, to provide humanitarian assistance and protection to persons displaced within their own country in specific situations calling for the Office's particular expertise, especially where such efforts could contribute to the prevention or solutions of refugee problems". Dennis McNamara in IOM 87/97 - FOM 91/97 UNHCR's Role with Internally Displaced Persons, paragraph 5. For examples of situations where the General Assembly or the Secretary General of the UN has requested UNHCR to protect internally displaced persons, see McNamara, "UNHCR's Protection mandate in Relation to Internally Displaced Persons," page 54-57 in *Rights Have No Borders: Internal Displacement Worldwide*, ed. Wendy Davies, Norwegian Refugee Council/Global IDP Survey, 1998, pages 53-61. See also Kourula, *Broadening the Edges: Refugee Definition and International Protection Revisited*, page 186 as well as UNHCR, *UNHCR's Operational Experience with Internally Displaced Persons*.

19 *The State of the World's Refugees: A Humanitarian Agenda*, page 117. See also Kourula, *Broadening the Edges: Refugee Definition and International Protection Revisited*, page 186, the latter referring to Protection Aspects of UNHCR Activities on behalf of IDPs, EC/1994/SCP/CRP.2 OF 4 MAY 1994).

20 EXCOM in 1994 adopted a Conclusion on Internally Displaced Person. It noted that "in many instances, the internally displaced are present alongside refugees, returnees, or a vulnerable local population, in situations where it is neither reasonable nor feasible to treat the categories differently in responding to their needs for assistance and protection." EXCOM Conclusion No. 75 (XLV) 1994, paragraph (m).

21 Opening Statement by the UN High Commissioner for Refugees at the Forty-ninth Session of the Executive Committee of the High Commissioner's Programme, Monday, 5 October 1997.

22 *The State of the World's Refugees. A Humanitarian Agenda*, pages 117-118. UNHCR surveyed its activities for IDPs in 1996 and concluded that, in cases where UNHCR decided not to get involved in protection and assistance for IDPs, the main reason was not a lack of a link between refugees and IDPs, but rather lack of donor interest, operational constraints, "others are doing the job" and/or the prospect that such action might have a negative effect on UNHCR's institutional image. See further *UNHCR's Operational Experience with Internally Displaced Persons*, Office of the United Nations High Commissioner for Refugees, Division of International Protection, September 1994. See also Dennis McNamara in IOM 87/97 - FOM 91/97 UNHCR's Role with Internally Displaced Persons, paragraphs 7 and 11, distinguishing between criteria for involvement and principles of operation, including the non-political and humanitarian nature of UNHCR's mandate. Also other preconditions have been raised, such as adequate provision for the security of staff of UNHCR and its operating partners and for acceptable operational conditions, as well as the presence, availability, operational capacity and mandates of other relevant organizations. Moreover, UNHCR's role can be specified in peace settlements, repatriation agreements and so forth. See further UNHCR, Protection Aspects of UNHCR Activities on Behalf of Internally Displaced Persons, Sub-Committee of the Whole on International Protection, EC/SCP/87, 17 August 1994, paragraph 13-14.

23 See S/1998/912, Report of the Secretary General prepared pursuant to resolution 1160 and 1199 of the Security Council, paragraph 22, and S/1998/1068, Report of the Secretary General prepared pursuant to resolution 1160, 1199 and 1203 of the Security Council, paragraphs 41 and 42.

24 *State of the World's Refugees: A humanitarian Agenda*, page 131.

25 *ibid.* page 129.

26 Article III, paragraph 2 of Annex 7 of GFAP specifically mentions activities of UNHCR and other organizations to include "traditional protection functions and the monitoring of basic human rights and humanitarian conditions, as well as the implementation of the provisions of this Chapter". Therefore, the examples above, among others, were part of the activities undertaken by UNHCR in Bosnia-Herzegovina.

27 Cohen, Roberta, "Recent Trends in Protection and Assistance for Internally Displaced People", in *Internally Displaced People: A Global Survey*. Global IDP Survey by the Norwegian Refugee Council, Ed. Hampton J., 1998, page 7. This author attributes the lack of a holistic view of humanitarian response to the division between humanitarian, development, and human rights organizations.

28 Jon Bennett provides a critical view of organizations' taking for granted that providing humanitarian assistance would establish an international presence that would be conducive to accountability and prevent some of the worst human rights abuses. Bennett, "Internal Displacement in Context: The Emergence of a New Politics", in *Rights Have No Borders: Internal Displacement Worldwide*. Ed. Wendy Davies, page 24.

29 See also John Pendergast, who warns against giving priority to achieving humanitarian access over advocacy for justice, human rights, and international humanitarian law, as this could ultimately have a negative impact on further negotiations on a peace settlement. Pendergast, *Frontline Diplomacy: Humanitarian Aid and Conflict in Africa*. Boulder 1996, pages 9-10.

30 Politicization by some of assistance and protection cannot be avoided, see Pendergast in *Frontline Diplomacy*, pages 39 and Cuncliff S. Alex and Michael Pugh, "The Politicization of UNHCR in the Former Yugoslavia", page 142 in *Journal of Refugee Studies*, Vol. 10 No.2 June 1997, pages 134-154. However, this author is of the opinion that intervening on behalf of the internally displaced for their protection is an integral part of a humanitarian mandate, and is therefore not to be seen as a political act.

31 United Nations Consolidated Inter-Agency Appeal for Humanitarian Assistance related to the Crisis in Kosovo, 1 June-31 December 1998, August 1998, United Nations.

32 United Nations Consolidated Inter-Agency Appeal for Bosnia-Herzegovina, Croatia, Federal Republic of Yugoslavia, Former Yugoslav Republic of Macedonia and Albania, January-December 1999, Office for Coordination of Humanitarian Affairs, United Nations (<http://www.reliefweb.int/>).

33 During the first quarter of 1998 there were 28,000 asylum applications from persons from Federal Republic of Yugoslavia pending in 11 European countries; 17,000 of these were lodged during April to September 1998. S/1998/1068 above, paragraph 20.

34 Opening Statement by the United Nations High Commissioner for Refugees at the Forty-ninth Session of the Executive Committee of the High Commissioner's Program, Geneva, Monday, 5 October 1998.

35 Report of the Secretary-General prepared pursuant to Resolution 1160(1998) of the Security Council, S/1998/834, 4 September 1998, paragraph 26.

36 Some consider international civilian presence as one of the most effective means of providing protection to internally displaced persons, or persons under threat of displacement. See further elaboration on

UNHCR's experience in this regard in *State of the World's Refugees: In Search of Solutions*, UNHCR, 1995, page 75. However, these international civilians cannot provide protection to communities that are under direct attack, *ibid.*, page 81.

37 Among other occasions, he addressed the Council on 10 November 1998 and 21 April 1998.

38 Presence can also serve as a confidence-building measure, reassuring returnees, in addition to deterring further human rights abuses, as noted by the Special Representative of the Secretary-General for Children and Armed Conflict, Mr. Olara A. Otunnu, when calling for an increased international humanitarian presence in Kosovo in his press release after a visit to Kosovo, 16 September 1998, S/RES/1199/12.

39 Security Council Resolution 1199 (1998) of 23 September 1998 on the situation in Kosovo. S/RES/1199 (1998).

40 As the events in Bosnia and Herzegovina have shown "no amount of diplomacy will succeed in preventing population displacement if a state is determined to violate the rights of its own or other citizens". *The State of the World's Refugees: In Search of Solutions*, 1995, pages 73-74. The same seems to be true for Kosovo, where a cease-fire was reached only after serious threats of NATO air strikes in October 1998.

41 Cohen and Deng in *Masses in Flight: The Global Crisis of Internal Displacement*, page 55.

42 *Ibid.*

43 *The State of the World's Refugees: A Humanitarian Agenda*, 1997, pages 44-45.

44 The Government was very keen on correcting the information UNHCR and especially the High Commissioner, Mrs. Ogata, conveyed to the media and the international community. Moreover, Deputy Prime Minister Seselj was particularly vocal, accusing journalists broadcasting foreign news, including the BBC and those working for international organizations, of being traitors. Domestic media, such as radio stations and newspapers, were banned.

45 Paradoxically, the reporting seemed to strengthen Milosevic's grip on power.

46 UN Inter-Agency Update on Kosovo Situation Report No. 72, 14-21 November 1998.

47 UN Inter-Agency Update on Kosovo Situation Report No. 71, 4-13 November 1998.

48 KDOM Daily Report, 15 December 1998.

49 Report of the Secretary-General Prepared Pursuant to Resolutions 1160 (1998), 1199 (1998) and 1203 (1998), S/1998/1068, 12 November 1998, paragraph 32.

50 *Ibid.*, paragraph 35.

51 Open Yugoslavia, November 13, 1998.

52 Report of the Secretary-General prepared pursuant to resolutions 1160 (1998), 1199 (1998) and 1203 (1998) of the Security Council S/1998/1068, 12 November 1998, paragraph 36.

53 According to the Serbian Ministry of Justice there are more than 1,500 persons being investigated under suspicion of involvement in "anti-state activities", *ibid.* See also Human Rights Watch, *Federal Republic of*

*Yugoslavia: Detentions and Abuse in Kosovo*, December 1998 Vol.10, No.10 (D)  
<http://www.hrw.org/hrw/reports98/kosovo2/>.

54 Humanitarian Issues Working Group meeting on November 20, 1998, Geneva.

55 Bennett, Jon: "Problems and opportunities of displacement" in *Internally Displaced People: A Global Survey*. Global IDP Survey by the Norwegian Refugee Council, ed. J. Hampton, 1998, page 11.

56 Please refer to Section 4 of this paper.

57 S/1998/1068 as well as interviews with OHCHR officials in Belgrade and Geneva.

58 The Holbrooke Agreement. UK Foreign Office (special pages on Kosovo)  
<http://www.mod.uk/news/kosovo/agreemnt/index.htm>.

59 Decision No. 218 of the OSCE Permanent Council of 11 March 1998 <http://www.osce.org/news/pc-hm98/pc98-156.htm>.

60 Decision No. 259 of the OSCE Permanent Council of 15 October 1998 <http://osce.org/news/pc-hm98/pc98-189.htm> and Decision No. 263 of 25 October 1998 <http://osce.org/news/pc-hm98/pc98-193.htm>.

61 Agreement on the OSCE Kosovo Verification Mission <http://www.osce.org/news/kosovo.htm>.

62 Ibid. paragraph 6.

63 See further the article "The Wrong Team for Kosovo" by Dana Stinson, President of Network Bosnia, in *Washington Times*, November 5, 1998.

64 The KVM personnel were called "verifiers" to indicate a more proactive and intrusive role than that of an observer or monitor.

65 Open Yugoslavia, 12 November 1998.

66 International Crisis Group notes that the unarmed verifiers could end up as potential hostages. See "State of the Balkans", International Crisis Group, 4 November 1998 <http://www.intl.-crisis-group/projects/balkans/reports/ba01rep.htm>.

67 NATO began deploying its XFOR units immediately after the approval of Macedonia in early December 1998. Canada, France, Germany, Italy, Netherlands and UK are providing forces for XFOR. Kosovo Progress Report released by the Bureau of European and Canadian Affairs U.S. Department of State, Washington, DC, December 8, 1998. [http://www.state.gov/www/regions/eur/rpt\\_current\\_kosovo.html](http://www.state.gov/www/regions/eur/rpt_current_kosovo.html).

68 USA, UK, EU, Russia and Canada had their own KDOM teams. These teams were to be incorporated into KVM, once KVM became operational. Ibid.

69 See KDOM Daily Report of 15 "November 1998.

70 Security Council Resolution 1199 on the Situation in Kosovo. S/RES/1199 (1998).

71 Report of the Secretary-General Prepared Pursuant to Resolutions 1160 (1998), 1199 (1998) and 1203 (1998), S/1998/1068, 12 November 1998, paragraph 43.

72 Open Yugoslavia November 30/2 1998.

73 Agreement on the OSCE Kosovo Verification Mission <http://www.osce.org/news/kosovo.htm>.

74 "Kosovo's long hot summer: Briefing on military, humanitarian and political developments in Kosovo", International Crisis Group, 2 September 1998 <http://www.intl-crisis-group.org/projects/sbalkans/reports/kosrep05.htm>.

75 The general perception is that neither the European countries, nor the US would like to see an independent Kosovo, arguing that independence could be a Pandora's box, destabilizing the Balkans, and in particular Macedonia and Bosnia-Herzegovina. For a discussion of NATO involvement in Kosovo, see the article "The Kosovo Crisis: Western Interests and Goals" by Dana H. Allin, editor of *Survival*. Still full independence for Kosovo has its supporters. See further International Crisis Group: South Balkans – Intermediate Sovereignty as A Basis for Resolving the Kosovo Crisis. November 9, 1998. [www.intl-crisis-group.org/projects/balkans/reports/kosrep07a.htm](http://www.intl-crisis-group.org/projects/balkans/reports/kosrep07a.htm). In "International Diplomacy and the Crisis in Kosovo" in *International Affairs* 74.4 (1998) pages 745-761, Richard Caplan suggests a split of Kosovo into two entities, although he concludes this may not be the best option. Various solutions to the crisis are also discussed in a report prepared by the European Action Council for Peace in the Balkans and the Public International Law & Policy Group of the Carnegie Endowment for International Peace, "Kosovo: From Crisis to a Permanent Solution", 1 November 1997. <http://www.ceip.org/programs/law/kosovo.htm>.

76 The UN High Commissioner for Refugees, Mrs. Sadako Ogata, saw a role for OSCE in, among other things, ensuring a safe environment for return, being able to judge whether the conditions allow for a safe return, establishing effective reporting channels together with UNHCR and other international organizations, promoting local capacity building, establishing solid democratic institutions, supervising elections, reforming judicial and law-enforcement structures, monitoring border crossings, promoting conflict resolution, and verifying peace settlements and post-conflict reconciliation. Statement by the UN High Commissioner for Refugees at the Permanent Council for Security and Cooperation in Europe. Vienna, 15 October 1998. <http://www.unhcr.ch/refworld/unhcr/hcspeech/981015.htm>.

77 According to John Pendergast, aid sustains a conflict in three ways: it can be used directly as a tool of warfare; it can be directly integrated into the dynamics of the conflict; and it can exacerbate the root causes of the war and the insecurity faced by the victims of the war. John Pendergast, *Frontline Diplomacy: Humanitarian Aid and Conflict in Africa*, page 17.

78 *Strategic Humanitarian Coordination in the Great Lakes Region 1996-1997*. An Independent Study for the Inter-Agency Standing Committee by Sue Lautze, Bruce D. Jones and Mark Duffield. March 1998. Policy, Information and Advocacy Division, Office for the Coordination of Humanitarian Affairs, United Nations, New York.

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