Key Policy Debates in the Internal Displacement Field

By

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 The phenomenon of internal displacement is centuries old although the subject did not come onto the international agenda until the last decade of the twentieth century. Greater access to countries experiencing displacement at the end of the Cold War combined with an upsurge in numbers of internally displaced persons (IDPs) helped bring attention to the problem. Whereas in 1982, only 1.2 million IDPs were counted in eleven countries, by 1995, the total had soared to 20 to 25 million in more than 40 countries, almost twice the number of refugees.[1] The destitute conditions of the displaced constituted not only a great humanitarian and human rights disaster, but as former United Nations Secretary-General Kofi Annan pointed out, a political and security problem requiring international attention as well. Internal displacement was the cause of instability within states, and if left unaddressed could spill over borders and upset regional stability.[2] A new international system, it was argued, needed to be created to promote protection for people uprooted within their own countries. The international refugee system set up after the Second World War applied only to those fleeing across borders from persecution and violence. An effective framework was needed for those uprooted and at risk within their own countries, especially since many governments did not have the capacity or willingness to help their uprooted populations.

 Not surprisingly, in seeking to develop a new international regime to address a subject as complex as internal displacement, many points of discussion and disagreement arose. While some issues have been resolved, this article focuses on six major ongoing debates involving sovereignty, the IDP definition, the IDP category, the legal framework, institutional arrangements and IDP protection. It seeks to provide an overview of the field of internal displacement and the challenges confronting it.

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Sovereignty

When asked in 1997 why the United Nations had not been able to do more for internally displaced persons, Sadako Ogata, the former UN High Commissioner for Refugees, replied: 'The problem is sovereignty.'[3] Indeed, any discussion of internal displacement must begin with how to conceptualize and address sovereignty. After all, internal displacement takes place *within* state borders and in most cases under the jurisdiction of functioning governments. Since many states do not have the capacity or the willingness to protect and assist their displaced populations, a controversy daily arises over the point at which responsibility should shift to the international community. Put more bluntly, when large numbers of people are at risk, to what extent should sovereignty be allowed to act as a barrier?

Over the past fifteen years, international involvement with internally displaced populations has increased considerably. Nonetheless, many governments continue to resist outside aid efforts on grounds of defending their sovereignty. Often they fear that in a civil war situation the aid will strengthen their opponents, undermine their authority or legitimize insurgent groups; or they fear that international humanitarian action could be a cover for the interference of powerful countries in the affairs of weaker states. A tug of war regularly plays out between governments and the international community over the point at which international humanitarian aid and a modicum of protection can be brought in to help populations at risk.

It is important to recall that for centuries, sovereignty and non-interference in internal affairs were considered to be stabilizing elements in international relations. However, when exercised in absolute terms they have also produced holocausts as well as other humanitarian and human rights disasters capable of killing millions of people and igniting wars between states. The United Nations Charter of 1945 did not, however, resolve the dilemma. It called for both the international promotion of human rights and non-interference in the internal affairs of states.

It was not until the end of the cold war that there was some evolution in thinking about the concept of sovereignty. UN resolutions, for example, began to demand access for the delivery of relief and to authorize the establishment of relief corridors and cross-border operations to reach people in need. Reflecting this change in thinking, France put forward the concept of humanitarian intervention ('le droit d'ingerence') although the term was frequently challenged as violating the principle of non-interference in the internal affairs of states. In the 1990s, the Representative of the UN Secretary-General on Internally Displaced Persons, Francis Deng, introduced a new concept -- the concept of sovereignty as a form of governmental responsibility. Under this concept, states have obligations to their citizens, their neighbors and the international community. In particular, they have the primary responsibility to provide for the security and welfare

of their internally displaced populations. If states are unable to do so, they are expected to request and accept outside offers of aid. However, if they refuse, or deliberately obstruct access to those in need, and put large numbers at risk, the international community has a right, even a responsibility, to become involved.[4]

The concept of sovereignty as responsibility reflected a shift at the international level toward recognizing that people in need of humanitarian assistance have certain rights and claims on the international community when their governments do not act responsibly or where there is a disintegration of the state. It is important to note that no government has explicitly challenged the concept of sovereignty as responsibility -- no doubt because in doing so it would have to argue that sovereignty allows a state to deny life-sustaining support to its citizens. Some governments, however, have challenged the concept implicitly by rejecting needed international aid. Others have sought to undermine the concept by insisting that IDPs are only those uprooted by insurgent forces, not those uprooted by government security forces, thereby denying that sovereignty is a form of responsibility to *all of* one's citizens. Similarly, when governments discriminate against IDPs on ethnic, religious or racial grounds, treating certain groups as lesser than the rest of the population, they challenge the concept of sovereignty as responsibility to all one's people. At the same time, many governments now request international aid, allow access to their IDPs and cooperate with the international community in providing assistance and protection as well as rehabilitation and reconstruction assistance. This reinforces national efforts while at the same time underscoring an emerging international responsibility to protect populations at risk.

Building on the concept of sovereignty as responsibility, the international community in 2005 endorsed a new landmark concept – the 'responsibility to protect' (R2P).[5] One hundred ninety-two governments in the World Summit Outcome document call upon states first and foremost to protect their own populations. But if they are unwilling or unable to protect them from genocide, ethnic cleansing, war crimes and crimes against humanity, the international community is expected to take collective action.

Not surprisingly, application of this new concept is producing sharp differences in view. Some argue that the responsibility to protect must be decided on a case-by-case basis and only with Security Council approval, thereby limiting its application. Others maintain that if the Security Council fails to act, humanitarian action can be undertaken by coalitions of the willing who will secure international approval thereafter. For the moment, it has become easier to make the case for protecting IDPs because of the endorsement of the 'R2P' idea. But if no international action is taken in a growing number of cases, the evolution in thinking about sovereignty could be curtailed or even set back. How this debate is resolved, therefore, will have profound impact on the treatment of people forcibly uprooted in their own countries in the years to come.

Comprehensiveness of IDP Definition

A second ongoing debate is over who qualifies as an internally displaced person. When Representative of the Secretary-General Deng and his legal team finalized the description of IDPs contained in the Guiding Principles on Internal Displacement, there was a good deal of debate over whether or not people displaced by natural disasters should be considered internally displaced persons. Some argued that an IDP should only be a person fleeing violence and persecution, in other words, a person who would qualify as a refugee if he/she crossed a border. However, majority opinion among the international experts consulted in the drafting of the Principles favored a broader definition, inclusive not only of those fleeing from armed conflict, generalized violence and violations of human rights but those uprooted by natural and human made disasters. The rationale for including people uprooted by natural disasters was two-fold: first, descriptively speaking, they are internally displaced; second, governments have been known to respond to natural disasters by discriminating against or neglecting certain groups on political or ethnic grounds or by violating their human rights in other ways. In other words, persons displaced by natural disasters also have human rights and protection needs requiring international attention.

The Guiding Principles definition included people displaced by natural and human made disasters,[6] but there are still experts who continue to oppose this broad formulation.[7] In addition, there are governments that do not consider persons uprooted by natural disastersto be IDPs; they refer to them rather as evacuees or disaster victims.[8] Nor do organizations that count IDPs count those uprooted by disasters, only those displaced by conflict. Nonetheless, wider recognition has developed that those displaced by natural disasters are IDPs and merit attention. Walter Kälin, the Representative of the UN Secretary-General on the Human Rights of IDPs, after visiting tsunami affected countries in 2005, concluded that 'it is no less important in the context of natural disasters, than it is in cases of displacement by conflict, to examine and address situations of displacement' and to use a 'protection lens.'[9] He has since developed Operational Guidelines for Human Rights and Natural Disasters.[10] Given the large number of disasters that are predicted to result from climate change in future, it behooves the international community to begin to address this problem more comprehensively.

Similar controversy has surrounded the plight of those arbitrarily displaced by development projects. The Guiding Principles apply to persons displaced by development projects, but internationally, persons uprooted by development projects often are not considered IDPs. They are not counted as IDPs by those collecting statistics, and they are not given assistance by the organizations involved with IDPs. There is in fact little consensus over what international agencies if any should become involved with these

populations. The World Bank and regional development banks have developed guidelines on involuntary resettlement applicable to those displaced by development projects, but the banks only monitor these situations when they themselves are involved in lending programs. No international institutional arrangements exist for those uprooted by development projects although the World Bank and regional development banks have been encouraging governments to adopt national laws and policies to assist these people in compliance with international standards.[11] Today, those displaced by development projects 'represent the single-largest sub-category within the global totality of IDPs,' with most left impoverished by the experience.[12]

People who migrate because of economic reasons are also often the subject of debate. Although not included in the IDP definition, periodically it is suggested that the definition be broadened to include those forced from their homes for reasons of poverty and economic want.[13] Most opinion to date, however, has been against calling economic migrants IDPs. First, the element of coercion and involuntary movement is not so clear when it comes to migrants; second, broadening the concept would make dealing with IDPs operationally unmanageable; and third, it would upset a political consensus that has developed around IDPs as persons with distinct protection needs.

Related to the question of who is an internally displaced person is when exactly a person should no longer be considered internally displaced. For some, internal displacement ends only when IDPs return to their original homes or places of origin. This view is generally based on the human right to return and on the Dayton Accords, which provide for return to original homes.[14] Others, however, counter that return may not always be possible or even desired by IDPs. The Guiding Principles on Internal Displacement provide IDPs with choices – return, integration where they are or resettlement in another part of the country. Making return the only benchmark for ending displacement could lead to a situation where internal displacement never ends and where the IDP identity is passed from generation to generation irrespective of the circumstances or needs of the persons involved.[15] Many argue that the decision as to when displacement ends should be linked to IDP vulnerability, that is, when IDPs no longer have distinct needs specifically related to their displacement and distinguishing them from others in the population. The right to restitution or compensation, they note, need not depend on whether or not a person remains displaced.

Because of the many questions over when displacement ends, the UN asked the Representative of the Secretary-General on Internally Displaced Persons to provide guidance on the question. Recently, Representative Kälin developed a set of benchmarks for deciding when displacement ends. Although not yet formally presented to the UN, the benchmarks show that solutions for IDPs 'entail much more than simply the

physical movement of returning or resettling, but also require putting in place conditions to ensure the durability of these solutions.'[16] They set forth conditions for deciding when an IDP has achieved a lasting and sustainable solution to his or her plight; for example, consultation with the displaced, free and voluntary choice as to whether to return or resettle, security in areas of return or resettlement, and access of IDPs to material assistance and to mechanisms for property restitution or compensation. The benchmarks demonstrate that displacement does not end at a particular point, but rather is 'a process' during which the need for specialized assistance and protection begins to diminish.[17] As the benchmarks begin to be known and disseminated, there will be considerable discussion and debate about their application in particular situations of internal displacement.

The IDP Category

Another point of debate is whether it is operationally useful to have a category of people known as internally displaced persons. Although the issue of internal displacement is now on the international agenda, and it is generally recognized that IDPs have special needs, discussion can still be heard over whether or not it is better to assist affected populations on the basis of vulnerability, rather than on the basis of their particular situation. The International Committee of the Red Cross (ICRC), for example, addresses all civilian victims of armed conflict whether or not they are displaced, and argues, as do others, that singling out one group can discriminate against others equally in need and could cause inequity and conflict.[18] IDP advocates argue to the contrary that displaced people have special needs emanating from their displacement and that these needs make them different from others in the population: for example loss of land and livelihood, more urgent needs for food and medicines, loss of documentation, loss of property, extreme vulnerability to acts of violence, and the need for durable solutions to their plight.[19] Identifying these needs is not intended to confer on IDPs a privileged status but to ensure that in a given situation their unique concerns are addressed along with those of others. Moreover, identifying the internally displaced as a specific group is a good advocacy tool and one that can motivate the donor community and international organizations to integrate the issue into their programs.

Over the past few years, there has been movement toward reconciling the two points of view. The ICRC's 2006 policy on IDPs recognizes that IDPs have different and sometimes more urgent needs than others in the civilian population. The ICRC now seeks to 'strike a balance' between specifically targeting IDPs and more general efforts aimed at broader segments of the population.[20] The European Community Humanitarian Office (ECHO), which had earlier expressed concerns about the IDP category, now also acknowledges that it is 'appropriate to target assistance to a specific category' when the category is more in need than

others of material assistance and protection.[21] As for IDP advocates, they too have come to emphasize that the needs of IDPs should not be 'blindly prioritized' over the concerns of all others, and that in certain situations, in particular where IDPs are mixed in with the local population, community based approaches may be the most effective means of addressing both IDP and broader community needs.[22] Flexible funding has been recommended as well, as a means of comprehensively addressing IDP and host community needs. Nonetheless, there are still some experts who question whether national and international attention should focus on the special needs of IDPs even though a growing number of governments around the world have begun to recognize the importance of addressing forced displacement in their countries and the ICRC now considers international concern for IDPs 'amply justified.'[23]

The Legal Framework

A fourth major point of debate is whether or not there should be a legally binding instrument applicable to IDPs.

The Guiding Principles on Internal Displacement, the first international standards for internally displaced persons, introduced into the United Nations in 1998, are not are not legally binding. They were drafted by a team of international legal experts under the direction of the Representative of the Secretary-General on Internally Displaced Persons, at the request of the UN General Assembly and Commission on Human Rights. Although consistent with international human rights and humanitarian law, they were not intended to be a binding instrument. First, there was no support from governments in the 1990s for a legally binding treaty. The subject of internal displacement was still far too sensitive and it was feared that a treaty applicable to IDPs could be an infringement on state sovereignty. Second, it was argued that treaty making could take decades, whereas there was urgent need for an immediate document to address the emergency needs of IDPs. Indeed, humanitarian organizations were regularly appealing for a clear and concise document to guide their work in the field. Third, sufficient international law existed that was applicable to IDPs. What was needed was a compact document to bring together the many provisions of law dispersed in a large number of instruments and restate them in a way that tailored them to the needs of the internally displaced.[24]

Although the Guiding Principles were not negotiated by governments, UN resolutions regularly refer to them as an 'important tool' and 'standard' for internally displaced persons, and the UN Secretary-General has called upon governments to promote their adoption through "national legislation."[25] Their authoritative character was further underscored in 2005, when all heads of state and government, in the World Summit Outcome Document, unanimously recognized the Guiding

Principles as 'an important international framework for the protection of internally displaced persons.'[26] To date, the Principles have been translated into more than 40 languages, and are widely used by UN agencies, regional bodies, NGOs and a growing number of governments as the basis for policies, laws and programs for the internally displaced.[27]

At the same time, basing laws and policies on the Guiding Principles does not guarantee that these laws and policies will be implemented. According to the Internal Displacement Monitoring Centre, only eight governments of about twenty with laws or policies on internal displacement 'can be considered to be making a genuine effort to implement them.'[28] Some experts as a result have asked whether compliance with the Principles would be greater if there were a legally binding treaty on internal displacement. Those in favor of a treaty argue that a binding instrument would have more authority and international recognition and would hold states accountable if they disregard its provisions. [29] Some NGOs also claim that if there were a binding instrument, governments would feel more pressured to take responsibility for IDPs.[30]

Kälin, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, puts forward several reasons for avoiding the negotiation of a binding instrument at this time.[31] Human rights treaty making, he points out, is a very cumbersome process and has become even more complicated in recent years. Not only could it take a decade or more to complete a treaty, but there is then no guarantee that the necessary ratifications will be secured or that the states most affected by the problem will ratify the instrument or do so without crippling reservations.

Moreover, states do not always comply even with the treaties they ratify. In addition, the treaty route holds particular dangers. Negotiating a treaty could become a pretext for watering down accepted provisions of international human rights and humanitarian law upon which the Principles are based. There are governments that would like nothing better than to rewrite the Geneva Conventions and other provisions of international law to make them less forceful. Until such time as the international community is ready to adopt a binding instrument that accords with the protection level set forth in the Guiding Principles, the Representative recommends that the most promising approach remains expanding the usage of the Principles.

To encourage greater usage, the Representative is developing a Legislator's Manual for lawmakers and policymakers to assist them in translating the rather abstract principles of international law into concrete national policies and laws based on the Guiding Principles.

At the same time, there is movement at the regional level to develop a legally binding instrument. The African Union, for example, is currently developing a legally binding protocol on internal displacement. It draws on the Guiding Principles and therefore could bolster their standing and legal basis. It also could become a stepping-stone to an international treaty. As long as the protocol maintains the protection level in the Guiding Principles,

the Representative of the Secretary-General welcomes the effort.[32] He also recommends that regional organizations in the Americas and Europe elaborate protocols on internal displacement to their human rights conventions. Such efforts, he points out may ultimately lead to the transformation of the Guiding Principles into a universal convention on the protection of IDPs or might lead to recognition of the Principles 'as an expression of international customary law…binding upon all countries.'[33]

Institutional Arrangements

One of the more contentious debates in the field of internal displacement involves the effectiveness of international institutional arrangements. For more than a decade, experts have argued about whether one single international agency should assume the main responsibility for IDPs worldwide in the same way the UN High Commissioner for Refugees (UNHCR) tends to refugees, or whether the UN's collaborative approach, in which many different UN agencies share the responsibility, should be maintained.

Those who favor a single agency argue that the absence of an international agency with a global mandate for IDPs has resulted in an international response system that lacks predictability and accountability. The different humanitarian and development agencies – whether UNHCR, UNICEF, the World Food Program (WFP) or the UN Development Program (UNDP) – basically pick and choose the IDP situations in which they want to become involved on the basis of their mandates, resources and interests. Although the UN's Emergency Relief Coordinator (ERC) was charged with coordinating the agencies, the ERC does not have the authority to tell the powerful, billion-dollar operational organizations what to do. The result has been that IDPs are helped in varying degree in some countries and not at all in others. Jan Egeland, who served as ERC from 2004 until 2007 acknowledged publicly that the needs of IDPs 'were often the first to fall between the cracks' in the international response system.[34] Antonio Guterres, the UN High Commissioner for Refugees has called internally displaced persons 'undoubtedly the international community's biggest failure in terms of humanitarian action.'[35]

To remedy the deficiencies in the collaborative approach, in 2005, Georgetown University's Institute for the Study of International Migration revived the idea of a single agency. It proposed the creation of a UN High Commissioner for Forced Migrants, whose portfolio would cover both refugees and IDPs. The proposal rejected the simple enlargement of UNHCR's mandate on the grounds that IDPs would always be an 'after-thought' in a refugee agency. [36] Although the idea for a single agency remains persuasive, several arguments have been made against it. To begin with, the magnitude of the problem of internal displacement is said to exceed the capability of any single agency so that a collaborative approach is more

realistic. Second, governments might object to an international agency that explicitly seeks to involve itself with internally displaced populations within their borders. Third, a new agency could duplicate the work of existing agencies already involved in meeting IDP needs. Fourth, it would be difficult to raise money for a new organization when humanitarian funds are already overstretched by ongoing emergencies.

A variant of the single agency option is for an existing agency, most notably UNHCR, to enlarge its mandate and assume the responsibility. For many years, prominent voices have called for the enlargement of UNHCR's mandate because of its long experience with protecting refugees, its comprehensive mandate encompassing both protection and assistance, and its effective role in various countries with IDPs.[37] The idea, however, has often triggered strenuous objections from other UN agencies unwilling to yield turf to the refugee agency.[38] The staff at UNHCR has also been divided. Some have feared that the agency would be overwhelmed if it took on the internally displaced. Others feared that protecting people in their own countries would undermine UNHCR's primary responsibility – to defend the right of people to leave their countries and seek asylum abroad.[39] Governments, it was pointed out, might use UNHCR's in-country protection activities for IDPs as a pretext for refusing to grant asylum.[40]

Nonetheless, in 2005 senior UNHCR officials began to articulate a more expansive outlook toward IDPs, even a 'predisposition' to help them, and the new High Commissioner, upon assuming office, affirmed: 'You cannot refuse to act just because they have not crossed a frontier.'[41] UNHCR's *State of the World's Refugees*, moreover, pointed out that while the agency would have to be mindful of asylum concerns, assisting IDPs could reinforce the asylum system: 'Countries of asylum might be more inclined to maintain their asylum policies if something were being done to alleviate the suffering of the internally displaced, reduce their need to seek asylum and create conditions conducive to their return.'[42]

Beginning in 2006, UNHCR agreed to enlarge its role with IDPs in accordance with a new international division of labor proposed by the Emergency Relief Coordinator and endorsed by the UN's Inter-Agency Standing Committee.[43] The refugee agency agreed to serve as the 'cluster lead' in the field for 1) the protection of IDPs; 2) camp management; and 3) emergency shelter. Basically this meant that UNHCR would coordinate the work of the other agencies in these areas and be held accountable for overall performance. In large measure, the new system is a blending of the collaborative approach, which remains the overarching framework, and the need to ensure that UN agencies assume authority on a regular basis in the sectors with which they have special expertise. Other international agencies agreed to assume the cluster lead with water and sanitation (UNICEF), nutrition (WFP), and early recovery (UNDP) -- in line with their areas of expertise.

Because the new system only came into effect in 2007, it is too early to judge its effectiveness and whether it brings greater predictability and accountability to operations in support of IDPs. However, a number of institutional problems endemic to the collaborative approach have already become evident. First, the other operational agencies in the field are not always willing to yield authority to UNHCR when it has sought to assume the lead role in the protection area. They continue to compete over turf and limited donor funds, which has had the effect in a few instances of undercutting UNHCR's role. Moreover, the Office for the Coordination of Humanitarian Affairs (OCHA) is reported to be developing a parallel protection structure in a variety of countries just as UNHCR is being asked to take the lead. Second, the collaborative system UNHCR must navigate is cumbersome. UNHCR must report to Humanitarian and Resident Coordinators in the field who in turn may have to report to Special Representatives of the Secretary-General. This is markedly different from UNHCR's lead role in the refugee field where it reigns supreme. Third, when it comes to IDP protection, UNHCR may face bureaucratic resistance. Many Humanitarian and Resident Coordinators (HC/RCs) are reluctant to advocate for the rights of the displaced in an assertive manner, envisaging their roles instead as maintaining close relationships with host governments. In fact, many view protection and human rights activities as 'political,' capable of undermining the provision of humanitarian relief and even fear it might lead to their expulsion from the country.[44] Special Representatives of the Secretary-General are also known to regularly put political concerns over humanitarian and human rights objectives.

Whether these problems will steer the debate back to the proposal for a single agency in the forefront of addressing the needs of IDPs remains to be seen. One new study observes that the optimists about the new system 'are betting against high odds' that the cluster approach will turn out more promising than other collaborative arrangements in the past.[45] Nonetheless, UN official Dennis McNamara describes the new system as 'revolutionary change' that might work in time.[46] Others, however, would still prefer to see one agency, UNHCR, take on the entire IDP function instead of being relegated to a cluster lead within the collaborative system. Joel Charny, Vice President at Refugees International, has described the UN Secretary-General, the Emergency Relief Coordinator, the leaders of the operational agencies and donors as 'climbers on a crumbling rock face,' clinging to the collaborative response even though experience and analysis have demonstrated its failings. The immediate way forward, he suggests, is to 'organize a comprehensive system-wide response to IDP needs with UNHCR in the driving seat.' [47] But for McNamara, the potential of the cluster approach 'for fostering a more predictable, accountable, timely and ultimately more effective international response to the needs of the internally displaced should not be underestimated.'[48]

Protection

With UNHCR having assumed the international protection lead in the inter-agency system for IDPs, questions about what exactly protection means, who should become involved, and what precise steps should be taken have come to the forefront of discussion about enhancing security for IDPs.[49]

When UNHCR provides protection to refugees, the agency basically defends refugees' legal right to asylum and *non-refoulement* in accordance with the Refugee Convention. But when it comes to IDPs, people uprooted in their own countries, there is no internationally recognized legal agreement on which to base protection activities. There is also no internationally recognized definition of protection or clear understanding of what UNHCR or other agencies should do in the field.

Nonetheless, there is an overall consensus among UN agencies and NGOs that the international response to emergencies 'must address not only assistance needs but also concerns of physical security.'[50] Providing humanitarian relief without attention to the physical safety and human rights of the beneficiaries too often has led to the tragic descriptions of the victims as the 'well-fed dead,' a term that originated in Bosnia in the 1990s. The UN Inter-Agency Standing Committee's protection policy paper of 1999 puts forward a definition of protection as 'all activities aimed at obtaining full respect for the rights of the individual' and outlines different categories of protection activities to be undertaken by UN field staff. However, a 2004 Brookings-OCHA study team, after visiting nine countries, found that 'The UN's approach to the protection of internally displaced persons is still largely *ad hoc* and driven more by the personalities and convictions of individuals on the ground than by an institutional, system-wide agenda.'[51]

As a result, OCHA developed detailed instructions for field staff in the area of protection, and together with the Norwegian Refugee Council (NRC), has created a standby force of protection specialists (ProCap) to send out in situations of internal displacement to help UN agencies.[52] UNHCR is also developing a handbook on IDP protection, with the assistance of the Representative of the Secretary-General on the Human Rights of IDPs.

From past practice, it is clear that protection efforts can range from monitoring and reporting of abuses to negotiating access with governments and non-state actors, advocating for the rights of the displaced, deploying increased protection staff on the ground, evacuating people, accompanying IDPs on returns home, and working with governments and civil society to develop national capacity. However, apart from ICRC and UNHCR, few organizations have a thorough understanding of how to protect IDPs, or the experience or skill to carry out protection work in the field. Some international field staff fears that advocacy for the displaced as well as other protection initiatives could undermine their ability to provide humanitarian

relief aid. Undertaking protection initiatives can also be a risky proposition, especially in failed states or where the state itself is causing the displacement. From 1992 to 2003, several hundred UN civilian staff members were killed in 45 countries and hundreds more were taken hostage in 27 countries.[53]

At the same time, many international agencies and NGOs have begun to experiment with ways to enhance protection.[54] Some agencies have found that joint advocacy can prove effective while also protecting individual agencies from being singled out for retribution. Designing assistance programs to enhance protection has also proven to be an important means of addressing protection concerns. For example, ensuring that women do not have to go far for firewood, or that latrines are well lit, can determine whether or not women and girls will be raped. Prompt and efficient reporting of protection problems to those who can act upon them is also critical. During returns and reintegration, international organizations and NGOs have found that in some cases it is effective to accompany the displaced home, help them reclaim their land and houses, or advise governments on how to set up institutions to deal with land and property disputes.

Nonetheless, in most emergencies, attention to protection is still inadequate. Some recommend the greater involvement of the Office of the UN High Commissioner for Human Rights in protection work as well as the greater engagement of UN agencies like UNICEF. Others call for increased training of NGO staff. Still others recommend closer collaboration with the UN Department of Political Affairs and UN peacekeepers. However, for some humanitarian organizations, involvement with the military remains problematic. Military and humanitarian action, they argue, should be separate. Otherwise, the neutrality of humanitarian workers will be undermined, they will become identified with one side to the conflict, and their aid operations and the security of staff will be endangered.[55] Others point out that international peacekeepers and police are increasingly being called upon to assume protection responsibilities for IDPs in situations of conflict and displacement[56] and argue that it is therefore incumbent on humanitarian actors to work together with military actors, and to develop where possible what are called "integrated missions" in which there is sharing of information and joint planning.

Conclusion

Despite the progress made in developing an international system to protect and assist persons displaced within their own countries, there remain many issues to resolve. Complex questions like sovereignty, international humanitarian action and a collective responsibility to protect can be expected to generate debate well into the future. Nor is the creation of a normative framework, the Guiding Principles, the end of the legal debate. While the Principles have been well received, they still need to be effectively

implemented, which has led to discussion about whether or not there should be a binding instrument. In the institutional arena as well, with no organization having a global mandate for IDPs, a good deal of experimentation is going on to find how best the UN should organize itself to address situations of displacement. The international tools and structures available for the protection of the internally displaced remain fledgling and subject to debate. In short, the creation of an international system to protect and assist IDPs, although moving forward, remains a formidable challenge for the twenty-first century.

Notes

[1] Cohen, R. & Deng, F.M. 1998, *Masses in Flight: The Global Crisis of Internal Displacement*, Brookings Institution Press, Washington DC, pp. 3, 32.

[2] Annan, K. 1998, Preface in Cohen & Deng, *Masses in Flight*, p. xix.

[3] Korn, D.A. 1999, *Exodus Within Borders*, Brookings Institution Press, Washington DC, p. 49.

[4] Cohen & Deng, *Masses in Flight*, pp. 275-280.

[5] United Nations General Assembly, World Summit Outcome, Resolution A/RES/60/1, 15 September 2005.

[6] The 1998 Guiding Principles on Internal Displacement state in their Introduction (para 2): 'For the purposes of these Principles, internally displaced persons are persons or groups of 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,' UN Doc.E/CN.4/1998/53/Add.2, reprinted as OCHA/IDP/2004/01.

[7] See Castles, S. & Van Hear, N. 2005, *Developing DFID's Policy Approach to Refugees and Internally Displaced Persons*, vol. 1, Refugee Studies Centre, Oxford, p.12.

[8] See, for example, Cohen, R 2006, 'Human Rights at Home,' Available at: http://www.brookings.edu/fp/projects/idp/20061101_RC_stmt_Harvard_Katrina.pdf

[9] Kälin, W. 2005, *Protection of Internally Displaced Persons in Situations of Natural Disaster*, Office of the UN High Commissioner for Human Rights (27 February-5 March).

[10] UN Inter-Agency Standing Committee, 2006. *Protecting Persons Affected by Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters,* Brookings-Bern Project on Internal Displacement, June.

[11] See Brookings-SAIS Project on Internal Displacement. 2002, *Summary Report of the Conference on Development Induced Displacement* (5 December) Available at: http://www.brookings.edu/fp/projects/idp/articles/didreport.htm

[12] Cernea, M. 2006, 'Development-induced and conflict-induced IDPs: bridging the research divide,' *Forced Migration Review*, Special Issue, Dec., p. 26.

[13] Brookings-SAIS Project on Internal Displacement. 2004, *Regional Seminar on Internal Displacement in the Americas*, Mexico City (18-20 February), p. 12.

[14] The Pinheiro Principles, for example, give greater emphasis to return and restitution than to resettlement and compensation, see Centre on Housing Rights and Evictions, *The Pinheiro Principles*, 2005, Geneva, www.cohre.org

[15] Mooney, E. 2005, 'The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern,' *Refugee Survey Quarterly*, vol. 24, no. 3, p. 22.

[16] Ibid.

[17] Kälin , W., The Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons (2006), 'Benchmarks of Durable Solutions for Internally Displaced Persons' (draft).

[18] International Committee of the Red Cross, 2000, 'Internally Displaced Persons: The Mandate and Role of the International Committee of the Red Cross,' *International Review of the Red Cross*, no. 838, pp.491-500.

[19] See Cohen & Deng, *Masses in Flight*, pp. 26-29, and Mooney, "The Concept of Internal Displacement," pp. 14-18.

[20] International Committee of the Red Cross. 2006, 'The ICRC's Position on Internally Displaced Persons (IDPs),' Geneva (April).

[21] See ECHO policy, cited in Mooney, 'The Concept of Internal Displacement,' p. 20.

[22] Mooney, 'The Concept of Internal Displacement,' pp. 19-21.

[23] 'The ICRC's Position on Internally Displaced Persons'.

[24] Cohen, R. 2004, 'The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting,' *Global Governance*, Oct.-Dec., pp. 464-5.

[25] United Nations General Assembly. 2005, *In larger freedom: toward development, security and human rights for all, Report of the Secretary-General*, UN Doc. A/59/2005, 21 March, para. 209.

[26] United Nations General Assembly. 2005, World Summit Outcome, A/RES/60/1, 25 September, para. 132.

[27] Cohen, R. 2004, 'The Guiding Principles on Internal Displacement,' pp. 459-480. See also Cepeda-Espinosa, M.J. 2006, 'How far may Colombia's Constitutional Court go to protect IDP rights?' *Forced Migration Review*, Special Issue, December, pp. 21-23.

[28] Internal Displacement Monitoring Centre (IDMC). 2006, *Global Overview of Trends and Developments in 2005*, p.17.

[29] See for example Lee, L.T. 2003, 'The Case for an International Convention on Displaced People,' in Williams, J.H. (ed) 2003, *Invisible Refugees*, Chicago-Kent College of Law and Pax International, Washington DC.

[30] See for example, Gaffar, P.A. 2005, 'Responsibility toward the Displaced,' *IDP Newsletter*, No. 1, CHA, DPA & HRC NPDS, Colombo, July, p.7.

[31] Kälin, , W. 2002, 'How Hard is Soft Law,' in Kälin, W., Deng, F.M., & Cohen, R. 2002, *Recent Commentaries about the Nature and Application of the Guiding Principles on Internal Displacement,* Brookings-CUNY Project on Internal Displacement, April.

[32] Kälin, W. 2005, 'The Guiding Principles on Internal Displacement as International Minimum Standard and Protection Tool,' *Refugee Survey Quarterly*, vol. 24, no.3, p. 33.

[33] Kälin, W. 2006, 'The future of the Guiding Principles on Internal Displacement,' *Forced Migration Review*, Special Issue, December, pp.5-6.

[34] Egeland, J. 2005, 'Toward a stronger humanitarian response system,' *Forced Migration Review*, Supplement, October, pp. 4-5.

[35] 'UN refugee boss says world tackling past failures,' 2005, *News 1*, New Brisbane, Australia, 27 September.

[36] Martin, S., Fagen, P.W., Jorgensen, K., Mann-Bondat, L. & Schoenholtz, A. 2005, *The Uprooted: Improving Humanitarian Responses to Forced Migration*, Lexington Books, New York, pp. 112-123.

[37] The Office of the United Nations High Commissioner for Refugees (UNHCR) 2006, *The State of the World's Refugees*, Oxford University Press, pp. 166-7 (Box 7.3).

[38] Cohen, R. 2006, "Developing an International System for Internally Displaced Persons," *International Studies Perspectives*, vol. 7, no. 2, p. 95.

[39] Phuong, C. 2004, *The International Protection of Internally Displaced Persons*, Cambridge University Press, pp. 88-92.

[40] UNHCR. 2006, *The State of the World's Refugees*, pp 166-7 (Box 7.3).

[41] 'UN refugee boss,' 2005, *News 1*.

[42] UNHCR. 2006, *The State of the World's Refugees*, p. 167 (Box 7.3).

[43] Egeland 2005, 'Towards a stronger humanitarian response system,' *Forced Migration Review*, pp. 4-5.

[44] Bagshaw, S. & Paul, D. 2004, *Protect or Neglect: Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, Brookings-SAIS Project on Internal Displacement & OCHA Inter-Agency Internal Displacement Division, Washington DC/Geneva, November, p. 4.

[45] Weiss, T.G. & Korn, D.A.2006, *Internal Displacement: Conceptualization and its consequences*, Routledge, London/New York, p. 142.

[46] Ibid. p. 143. See also McNamara, D. 2005, 'Who does what?,' *Forced Migration Review*, Supplement, October, pp.6-7.

[47] Charny, J. 2005, 'New approach needed to internal displacement,' *Forced Migration Review*, Supplement, October, p. 21.

[48] McNamara, D. 2006, 'Humanitarian reform and new institutional responses,' *Forced Migration Review*, Special Issue, December, p.10.

[49] Feller, E. 2006, 'UNHCR's role in IDP protection: opportunities and challenges,' *Forced Migration Review*, Special Issue, December, pp. 11-13.

[50] United Nations Inter-Agency Standing Committee, 2000, *Protection of Internally Displaced Persons,* IASC Policy Paper Series, no.2, New York.

[51] Bagshaw & Paul, *Protect or Neglect*, p. 3.

[52] 'Providing capacity to do protection: ProCap' 2006, *Forced Migration Review,* Special Issue*,* December, p. 14.

[53] Cohen, R. 2003, "Safety for Those Who Bring Help," *Washington Post*, 3 Nov.

[54] See, for example, UN Inter-Agency Standing Committee. 2005, *Growing the Sheltering Tree: Protecting Rights through Humanitarian Action*, UNICEF.

[55] UNHCR. 2006, *The State of the World's Refugees*, pp. 173-175.

[56] O'Neill, W.G. 2004, *A New Challenge for Peacekeepers*, Brookings-SAIS Project on Internal Displacement, Washington DC, April.