

First National Multi-Stakeholders' Forum on Promoting and Protecting the Rights of the Internally Displaced Persons

Island Cove Resort, Binakayan, Cavite, the Philippines

9 – 10 December 2005

Keynote address

Presented by Dr. Walter Kälin, Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons

First let me express my appreciation to the Philippines Human Rights Commission for the invitation to address this gathering and particularly for providing us all with the opportunity over the next two days to hear and discuss a variety of perspectives on internal displacement in the Philippines.

As Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons I particularly commend the Commission for convening this Forum and for the broader process of consultations and workshops of which this Forum is the culmination. The organization of such a forum was one of the recommendations made by my predecessor, Dr Francis Deng, upon his visit to the Philippines in 2002.

In his recommendation, Dr Deng called for a closing of the gap between government policy on internal displacement and its implementation on the ground. He identified a need to clarify strategies for addressing the problem of internal displacement, including protection and assistance needs, and to facilitate the search for durable solutions. As we meet in this Forum, I suggest we keep these particular goals in mind. I also hope that the conclusions and recommendations of this meeting will be widely disseminated throughout the country, especially in areas of displacement outside of the capital, and specifically among internally displaced communities. Most importantly, it is key that they be implemented.

This is a particularly opportune time to be holding a forum on internal displacement in the Philippines as the Congress is currently considering a bill on internal displacement. Although I have not seen the draft bill and therefore cannot comment on it directly, the general process of incorporating the Guiding Principles on Internal Displacement into domestic law is one in which I am particularly interested and am pleased to say is a process that has been undertaken by several countries in the past few years.

I also warmly welcome internally displaced persons present at this meeting and I am looking forward to listening to their experiences. In fact, they have a right to

be consulted and to be heard, and their voices will contribute importantly to the outcomes of this meeting.

IDPs are too often absent from meetings like this, and their voices remain unheard. This is part of an overall tendency to overlook the specific fate and the special needs of the displaced. Thus, unlike for refugees, no special agency has been designated at the international level to address the issue of internal displacement specifically, and no international convention lists the rights of IDPs. In many countries, national authorities neglect the IDPs or even deny their existence. What, then, can be done to improve the situation and mitigate the suffering of IDPs? I would like to suggest that at least three elements are important, namely that (1) their rights are identified and recognized, (2) national authorities take their responsibility to protect and assist IDPs seriously, and (3) the international community improves its support for such efforts and contributes better to the protection of the rights of the displaced and their assistance.

(1) Identifying and recognizing the rights of IDPs: The starting point is the recognition of the fact that unlike refugees, whose legal situation is precarious because they are (often unwanted) aliens in the country of refuge, IDPs remain citizens of the country they are in and do not lose, as a consequence of their being displaced, the rights provided to the population at large. Thus, they can invoke all the human rights that must be respected by the country concerned. The Guiding Principles on Internal Displacement which have been recognized by the heads of State and government who assembled at the World Summit in New York in September 2005 as an “important international framework for the protection of internally displaced persons”, set the international minimum standards for the protection of internally displaced persons and provide a framework for identifying protection needs and for planning, implementing and monitoring protection activities. The Principles apply not only to states but also to non-state actors, including armed groups.

Rather than imposing new obligations, the Guiding Principles compile and restate existing international human rights and humanitarian law applicable to internally displaced persons. Although not a legally binding document, the Guiding Principles are based on existing law and have been recognized as authoritative at the international, regional and national levels. You will be interested to know that the Guiding Principles have been translated into over 40 languages, including Tagalog, Cebuano and Magui.

In order for the Guiding Principles to achieve actual benefits for IDPs, they need to be implemented. In practice, implementation requires that they be adopted by states and incorporated into laws and policies. The process of developing such laws and processes, as many of you will know first hand, is not a simple one. In order to provide practical guidance on the ground, the Guiding Principles cannot simply be adopted verbatim or incorporated wholesale. It is necessary to adapt the Principles to the particular institutional and displacement context of each

state. A comprehensive approach to displacement, addressing conflict, natural disaster, development and other causes of displacement, may be generally applicable to all states. However, the specific institutional mechanisms and procedures that exist or can be created in a state to implement and monitor a law or policy will often differ from one state to another.

Recognizing the challenges in drafting a law on internal displacement, I am developing, in consultation with a group of experts, a manual that will provide law and policy makers with detailed guidance as to the content, institutional arrangements and procedures necessary to make the Principles operational at the domestic level. I regret that this manual will not be completed in time to be of assistance to your Congress.

(2) Taking national responsibility seriously: There is a consensus today that the primary responsibility for protecting and assisting IDPs lies with states and their governments. Adoption of a law on internal displacement is an important step in ensuring protection for internally displaced persons, but it is not sufficient. There are several other concrete steps that states can take to ensure that the rights of IDPs are respected and the states' responsibilities fulfilled. To assist in this regard, my office has developed a Framework for National Responsibility that identifies twelve key steps for governments. Besides the need to enact appropriate laws and policies on internal displacement, I would like to highlight some of these steps:

Prevention: governments have a responsibility to prevent conditions that might compel populations to leave their homes and, in particular, to protect individuals against arbitrary displacement;

Collection of data: credible information on the number, location and condition of the internally displaced is essential for designing effective policies and programs to address their needs and protect their rights;

Appointment of a national institutional focal point: the appointment of a focal point is important to ensuring coordination within the government and with local and international partners;

A role for national human rights institutions: National human rights institutions can help reinforce national responsibility by: investigating reports of violations and working to ensure an effective response by the authorities; providing awareness-raising and training; advising on the development of a national law and policy; and monitoring and reporting on its implementation.

The Asia Pacific Forum of National Human Rights Institutions, represented here by its Deputy-Director, Pip Dargan, and the Brookings-Bern Project on Internal Displacement of which I am a Co-Director, have developed a project specifically to help build the capacity of national human rights institutions in the Asian region

to address issues of internal displacement. The Philippines Commission is part of this project and has shown itself to be actively engaged on the issue, as the organisation of this Forum shows.

With the adoption of a law on internal displacement soon to be achieved in the Philippines, the role of the Philippines Commission on Human Rights will expand to include monitoring the implementation of the law. Whether this is a role formally assigned to it in the law or not, it is part of its general mandate to promote and protect human rights. It will be important for all relevant parties to support the Commission in this role. I am certainly pleased as Representative of the Secretary-General and as Co-Director of the Brookings-Bern Project to lend my continued support to the Commission in this role.

Three other steps to which I would draw attention are:

First, ensuring IDP participation in decision making: this reflects the requirements in the Guiding Principles that IDPs be consulted and given the opportunity to participate in decisions affecting them, including in matters of relocation and in the design and distribution of humanitarian assistance. Women in particular must be integrated into the consultations and their views taken into account in peace processes.

Secondly, supporting durable solutions: governments have a duty to establish conditions to allow IDPs to return voluntarily, in safety and dignity, to their places of habitual residence or, if they choose, to resettle in another part of the country. National authorities also have a responsibility to facilitate their reintegration. Further, the authorities have responsibility to assist IDPs to recover property and possessions of which they were disposed as a result of their displacement and, when this is not possible, to obtain compensation or another form of just reparation.

Finally, adequate resources must be allocated: National responsibility requires governments to devote resources to address situations of internal displacement. Governments lacking the capacity to do so can and should turn to the international community for assistance.

While the primary responsibility for implementing these steps lies with the state, international organizations, regional bodies, national human rights institutions, civil society and the displaced themselves also have a role to play in assisting the state implement the Framework. In addition, they can use the Framework to evaluate the extent to which national responsibility is being effectively exercised and use it as a basis for advocacy efforts on behalf of the rights of the displaced.

(3) Improving the international response: In looking at the international response, it has often been uneven and even unpredictable. Determining its role and responsibilities with regard to internal displacement has proved a challenge.

Indeed, for many years, internally displaced persons suffered from what was referred to as a 'protection gap'. At the national level this meant that countries with internally displaced populations were unwilling to protect the rights of those affected or lacked the capacity and tools to do so. At the international level a UN-Brookings study found that the UN's approach to internal displacement was 'still largely ad hoc and driven more by personalities and the convictions of individuals on the ground than by an institutional system-wide agenda'. The UN approach also suffered 'from a lack of political and financial support from UN headquarters and UN member states'.

However, I am pleased to announce that mechanisms and procedures have been agreed to within the United Nations that should help remove this gap and create greater clarity, predictability and accountability for the response to situations of internal displacement. A so-called 'cluster approach' has been developed to deal with IDPs and is intended to provide a fresh start for the humanitarian response in general.

UNHCR, the UN agency responsible for refugees, has agreed to take the lead in three areas: emergency shelter; camp coordination and management; and protection, focusing on the needs of those internally displaced by conflict and of affected populations. This new approach marks a major turning point for UNHCR. For the first time, IDPs in addition to refugees will be an integral and important part of UNHCR's global activities.

The challenge now is to build the capacity of the international agencies that are adopting greater roles in IDP protection and to ensure that these agencies have sufficient resources to allow them to fulfil their new roles while still being able to maintain their previous commitments and priorities.

Let me conclude: The important step taken by the international community to address this gap, the Philippine government's decision to adopt a law on internal displacement and the initiative taken by the Commission on Human Rights in convening this Forum are all pieces in a broad puzzle that has the potential to have a very positive impact on the protection afforded internally displaced people.

We all have the responsibility to work for the prevention of internal displacement and, where it already exists, to protect the rights of IDPs and work to achieve durable solutions. While it is the primary responsibility of states to protect and assist IDPs, I am of the firm view that durable solutions to issues of internal displacement of both long and more recent standing can only be found through effective cooperation and action among all relevant actors, based on the Guiding Principles on Internal Displacement and the international human rights standards which underpin them.

Your attendance at this Forum suggests a willingness on the part of relevant actors in the Philippines to cooperate effectively on the issue of internal displacement and provides an opportunity to formulate a common agenda in support of IDPs and a corresponding plan of action. The opportunity is before all of us to make strong and practical recommendations to this end. I look forward to the next two days of deliberations and to our efforts to transform the full range of IDPs' rights into reality in the Philippines.