

**TRAINING WORKSHOP AND CONSULTATION ON
INTERNALLY DISPLACED PERSONS IN SOUTH ASIA**

**STATEMENT BY THE REPRESENTATIVE OF THE SECRETARY-GENERAL FOR THE HUMAN
RIGHTS OF INTERNALLY DISPLACED PERSONS, MR. WALTER KÄLIN**

**13 JULY 2006
COLOMBO, SRI LANKA**

Ladies and Gentlemen,

It is my honour to address you on behalf of the Representative of the Secretary-General for the Human Rights of Internally Displaced Persons, Mr. Walter Kälin, who regrets to be unable to be with us today. Mr. Kälin would like to thank Forum Asia very much indeed for organizing this important Workshop on IDPs in South Asia, in collaboration with the Brookings-Bern Project, which he co-directs.

He wants to use this opportunity to commend Forum Asia for the initiatives the Forum, its member institutions and partner organizations have been undertaking for many years to raise awareness of and improve the protection of the internally displaced in this region. Last year, the Representative traveled to the region after the tsunami disaster and participated in meetings organized by Forum Asia and the Sri Lanka Human Rights Commission, in which civil society organizations and National Human Rights Institutions (NHRIs) discussed the human rights concerns of IDPs affected by natural disaster. He also attended a number of meetings with local humanitarian and human rights NGOs.

Internal displacement remains one of the most serious human rights and humanitarian problems in Asia. The Representative therefore strongly emphasizes the importance of the continued work of Forum Asia, such as through the present workshop, to enhance the cooperation of human rights advocates and NHRIs throughout the region.

Millions of people in Asia have been forced to abandon their homes due to violence and armed conflict, discrimination and harassment, natural and man-made disasters, such as floods, earthquakes and famines, as well as development projects. Close to three million people in more than a dozen countries in the region are currently estimated to be displaced by violence and human rights abuses alone. Some people have had to flee or move against their will several times. The overall number of IDPs in the region is increasing, as the lack of humanitarian assistance and human rights protection, as well as the absence of political solutions to conflicts, too often prevents their sustainable return and reintegration.

Forced displacement has devastating effects on individuals and groups. Families and communities are separated and livelihoods destroyed. Citizens are socially, economically and politically marginalized. Even though unemployment, discrimination and poverty

also affect the wider population in Asia, IDPs often suffer disproportionately, including from higher morbidity and mortality rates.

UN Secretary-General Kofi Annan has therefore called internal displacement “one of the great human tragedies of our time.” Worldwide, some 20 to 25 million people are displaced by conflict and human rights violations alone. Millions more have been displaced by natural disasters and development projects.

Under international law, it is the national authorities who have the primary responsibility for meeting the protection, assistance, reintegration and development needs of the internally displaced. Towards this end, the role of NGOs and NHRIs is particularly important. National and international responses to situations of internal displacement are enhanced and better informed when partnerships are forged with civil society groups and with IDPs themselves. NGOs often have the relevant experience and expertise in addressing their immediate assistance and protection needs. The close contact that NGOs have with the displaced means that they are well placed to reflect the aspirations of IDPs and provide a voice for their views, as well as to suggest strategies for addressing their needs and protecting their rights. Local lawyers groups and NGOs have also worked with their governments to bring laws affecting the rights of IDPs into line with the UN Guiding Principles on Internal Displacement (“the Guiding Principles”).

In the following, I will focus on three common key issues, achievements and challenges, which are relevant to situations of internal displacement in South Asia.

First of all, protection problems arising from disaster and development-induced displacement need to be fully integrated into national and international humanitarian and human rights responses.

The Guiding Principles make it clear that IDPs must not be discriminated against - neither in relation to the non-displaced population, nor between different groups of displaced persons. Whatever the cause of their displacement, all IDPs have the right to receive adequate assistance and full protection of their rights.

In the aftermath of the Indian Ocean tsunamis, it emerged that humanitarian agencies, while they focused on providing assistance to the victims, directed insufficient attention toward protecting their human rights. Displaced women were at risk to become victims of gender-based violence. When people lost their personal documentation, they often faced difficulties in accessing education and the job market and from participating in elections. The absence of documentation concerning property ownership – whether because that documentation has been lost or destroyed, or because many communities rely upon traditional or communal methods of property allocation – also proved problematic. Loss of documentation continues to be an obstacle to applying for restitution or compensation.

There is today an increasing interest in and recognition of the human rights of persons displaced by natural disasters and this momentum needs to be sustained. In this context, Representative Kälin embraces the *Guidelines on Internally Displaced Persons in the*

Context of Natural Disasters for National Human Rights Institutions which were approved last August.

The Representative's mission to Sri Lanka and Thailand in the wake of the tsunamis helped him to recommend next steps in the international, regional and national responses to human rights protection problems which affect those displaced by natural disaster. As part of an effort to underscore, at the international level, the human rights implications of disaster situations, the Representative recently developed the *Operational Guidelines on Human Rights Protection in Situations of Natural Disasters*. These Guidelines have been endorsed by the UN's main humanitarian, human rights and development agencies. Although they mainly address international agencies, they could also contribute to inspiring the work of NGOs and NHRIs in this region.

Concerning development-induced displacement, it must be stated at the outset that Governments' interest to invest in and carry out development projects is, of course, in many cases legitimate, even laudable, as and when they contribute to a higher standard of living for the population at large. However, governments must ensure that these projects are implemented in a manner compatible with national laws and international human rights standards. This means, for example, that the affected population must be notified and consulted in advance, and that its concerns and needs must be taken into account. Where communities need to be relocated, this must be done in conditions of safety and dignity and with appropriate compensation with the possibility of judicial appeal.

Second, the normative framework for the protection of IDPs needs to be strengthened.

The Guiding Principles on Internal Displacement are widely recognized as an important framework for the protection of IDPs and as a practical point of reference, as they restate the relevant norms of international human rights, humanitarian and refugee law in a comprehensive and accessible format. At the UN World Summit last September, Heads of State and Government reaffirmed their importance and pledged to "take effective measures to increase the protection of internally displaced persons."

The Representative believes that one such measure to increase the effectiveness of the Guiding Principles is their incorporation into laws and policies in regional and national contexts. Secretary-General Kofi Annan has similarly urged UN member States to adopt the Guiding Principles through national legislation. As the context in which displacement occurs differs between countries and regions, the Guiding Principles can gain additional value, meaning and accessibility if they are appropriately applied in the local situation. Such laws and policy frameworks will provide additional instruments of guidance not only to the authorities responsible for finding and promoting durable solutions to displacement, but they will also help IDPs and their advocates to be aware of and claim their rights.

Various regional organizations in the world have over the last year undertaken more innovative efforts towards the implementation of the Guiding Principles. The

International Conference of the Great Lakes Region is close to adapting a Protocol on internal displacement which obliges States Parties to incorporate the Guiding Principles into domestic law. The African Union has started the process of developing a binding instrument on internal displacement in Africa. The Council of Europe and the Organisation of American States have recommended that relevant national laws be based on the Guiding Principles. Their resolutions spell out some concrete measures which States should take, for example, to ensure that “the rights of IDPs in situations of natural and man-made disasters [are protected], and [that] a rights-based approach to disaster relief and reconstruction which builds on the Guiding Principles on Internal Displacement” should be used.

Since there is no comparable regional human rights mechanism in Asia, the cooperation among NGOs, NHRIs and among civil society organizations throughout the region is all the more crucial. In that context, the proposed NHRI Declaration of Cooperation, which is to include advocacy vis-à-vis Governments for them to establish an appropriate ASEAN human rights mechanism, is to be welcomed. NGOs and NHRIs will eventually be well-placed in the process to ensure that the human rights concerns related to internal displacement, regardless of its cause, are given due attention by the new mechanism, and that relevant international human rights standards, such as the Guiding Principles on Internal Displacement, will be reflected at the regional level.

At the national level, a number of states around the world have recently been elaborating new national strategies, laws or programmes, such as Sri Lanka, Nepal, Iraq, Nigeria, Uganda, Turkey, Georgia, Azerbaijan, and others. These developments are important steps forward as they demonstrate the Governments’ commitment to making concrete progress in addressing situations of internal displacement. Eventually, it is hoped that all states affected by, or threatened with, internal displacement will adopt laws and policies providing protection and assistance to IDPs, and protection to civilian populations from forced displacement. Advocacy by NGOs and other civil society organizations can strongly support this process.

Above all, it is crucial that these instruments address all needs and rights of all IDPs in all phases of forced displacement, in accordance with the Guiding Principles. Particular attention must be paid to the special needs of vulnerable groups among IDPs, such as female-headed households, ethnic minorities and indigenous groups, elderly, disabled and traumatized persons and those with HIV/AIDS. Laws and policies should also contain provisions for timely and broad consultations with those they are designed to benefit. Gaps in existing legislation, such as narrow notions of who is an IDP, which may exclude, for example, those displaced by natural disaster or by violent fighting which involves the Government’s armed forces, would need to be reviewed and the laws in question amended or replaced.

In order to contribute to meeting the challenge of translating the rather abstract and general principles of international law articulated by the Guiding Principles into concrete laws and policies, the Representative, together with the Brookings-Bern Project on Internal Displacement, will publish a *Manual for Legislators and Policymakers* next year.

This manual will be designed to help governmental authorities as well as NGOs and NHRIs identify legal and policy options for ensuring the protection of the human rights of the internally displaced through binding national laws. It will also include best practices of national responses, including from Asia.

Once adequate policies and legislation are in place, it is, of course, critical that they be implemented fully and in good faith. This leads us to **the final issue to be addressed briefly: the importance of capacity-building** of both rights-holders and duty-bearers.

Laws, policies and assistance programmes for IDPs are more likely to be translated into action if the beneficiaries and their advocates are aware and make use of them. In reality, many IDPs have been so marginalized by their displacement that they may not be able to claim their rights even where there are established processes in place. Initiatives such as the present workshop, aimed at strengthening the role of human rights defenders, as well as awareness-raising campaigns and legal clinics are of great importance and merit the continued and enhanced support by national and international agencies. Strengthening local capacity and further developing the skills of NGOs and other groups in civil society should be built into national action plans for IDPs. Let me draw your attention to a new tool which will be very useful in this respect: the *Guide to Human Rights Mechanisms for IDPs and their Advocates*, recently published by the Brookings-Bern Project on Internal Displacement.

In an effort to train and advise Government officials on the implementation of measures to protect and assist IDPs, the Representative holds an annual course, the *Sanremo Course on the Law of Internal Displacement*, and participates in national training and implementation workshops. He fully supports recommendations discussed with Forum Asia member institutions according to which NGOs and NHRIs would expand their training activities for government and law enforcement officials in the protection of internally displaced persons. His *Framework for National Responsibility* details twelve key steps for Governments to take towards ensuring the effective exercise of national responsibility and the protection of the rights of the internally displaced, including consultations with NGOs when developing and implementing its responses to internal displacement.

In closing, let me emphasize once more the importance the Representative attaches to the work undertaken by Forum Asia and its member and partner organizations, and assure you that he looks forward to continued cooperation towards an improved protection of the human rights of IDPs in Asia.