

THE INTERNAL DISPLACEMENT LAW AND POLICY MANUAL

A Project of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons and the Brookings-Bern Project on Internal Displacement

Background Paper

Rhodri C. Williams
February 2007

The Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons (RSG), Walter Kälin, is in the process of developing a handbook for national policymakers and legislative drafters aimed at assisting them to implement the Guiding Principles on Internal Displacement (Guiding Principles).¹ The development of the “Internal Displacement Law and Policy Manual” is supported by the Brookings Institution-University of Bern Project on Internal Displacement.² This Background Paper sets out the evolution of this project, the goals sought to be achieved through the Manual, and remaining steps to be taken.

Background

In addition to some nine million refugees worldwide, there are more than 25 million internally displaced persons (IDPs), who, while uprooted from their homes by conflict, are distinguished by the fact that they remain within their own countries. Many millions more women, men and children have been internally displaced by natural disasters and development projects. The Guiding Principles on Internal Displacement are the first international standards specifically tailored to the needs of IDPs. Since their presentation to the UN in 1998, the Guiding Principles have gained international standing and authority. Most recently, the 2005 World Summit Outcome Document (A/RES/60/1) recognized the Principles as an important international framework for the protection of IDPs and resolved to take effective measures to increase such protection (¶ 132).

In accordance with international law and the Guiding Principles, governments have the primary responsibility for addressing the needs of IDPs. Domestic authorities are expected to ensure the provision of assistance, protection and reintegration aid to internally displaced populations within their borders. To guide them in this task, an increasing number of states have relied on the Guiding Principles in formulating national laws and policies on internal displacement. Angola led the way, incorporating the Guiding Principles into domestic legislation in 2001 in anticipation of the end of its long-running internal conflict and the possibility of durable solutions for the displaced. Since then, a significant number of states – and even regional bodies

¹ Information on the mandate and work of the RSG and the Guiding Principles on Internal Displacement can be found at the following link: <http://www.ohchr.org/english/issues/idp/>.

² The Brookings-Bern Project promotes a more effective national, regional and international response to internal displacement and supports the mandate of the RSG. See <http://www.brookings.edu/idp>.

such as the International Conference on the Great Lakes Region in Africa – have drawn upon the Guiding Principles in drafting legal or policy instruments.³

As the current RSG noted in his first report to the Commission on Human Rights (E/CN.4/2005/84, ¶¶ 83, 84), existing domestic laws on internal displacement have not always succeeded in clarifying “how the rather abstract general principles of international law articulated by the Guiding Principles should translate into concrete action on the ground.” In order to address this gap, the RSG proposed “to convene a series of consultative meetings ... with experts, lawmakers and IDP advocates, with the goal of clarifying the detail of how domestic law should contribute to the protection of IDPs.” Former UN Secretary-General Kofi Annan endorsed this approach in his 2005 reform report *In Larger Freedom* (A/59/2005), which urges states to accept the Guiding Principles and to commit themselves to promote their adoption through national legislation (¶ 210).

Development of the Manual

Important steps have been taken in the process of developing the Manual. Following an initial study on existing laws and policies on internal displacement by the Ludwig Boltzmann Institute of Human Rights, a Steering Group of experts from leading international agencies, regional human rights bodies and academic institutions was convened to conceptualize the Manual and identify topic areas for which guidance is most urgent. At its second meeting in November 2005, the Steering Group finalized a list of topics to be discussed in detail in the Manual and commissioned expert studies on each selected topic. In September 2006, a Consultative Meeting was held in Vienna, Austria to allow expert practitioners, including members of non-governmental organizations and international agencies, to comment on the studies and ensure that their description of obstacles to domestic implementation of the Guiding Principles and prescriptions for resolving them were realistic and informed by recent field experience.

Next Steps

The expert studies are currently being edited for publication in autumn 2007 by the Brookings-Bern Project and the American Society of International Law. The study topics are as follows:

³ For a compilation of laws and policies on IDPs, see: http://www.brookings.edu/fp/projects/idp/idp_policies.htm.

- Prevention of displacement in conflict and disasters
- Planned evacuations and shelter
- Shelter, resettlement and adequate housing
- Movement related rights
- Family life
- Rights to food and water
- The right to health

- Documentation
- Remedies for deprivations of property rights
- Employment, livelihoods and economic activities
- Political participation
- Education
- Legal aspects of humanitarian assistance
- Social security and pensions

The IDP Law and Policy Manual will be drafted over the course of 2007 and early 2008, in a process that will draw both on the completed expert studies, other relevant sources of expertise and a series of regional and expert consultations. The final Manual will be widely disseminated to national policymakers, competent ministries, legislators and civil society groups concerned with internal displacement in the hope that it will be of direct and concrete assistance in crafting laws and policies that will prevent internal displacement wherever possible and mitigate its effects on the lives of IDPs worldwide. The Manual will also be of use to the RSG and his international partners in their ongoing efforts to promote effective national laws and policies to prevent, address, and resolve internal displacement.