

**Background Memorandum for the  
Regional Workshop on Internal Displacement in the South Caucasus  
Tbilisi, 10-12 May 2000**

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Internal displacement has come to the fore in recent years as one of the most pressing humanitarian, human rights and political issues now facing the global community. There are an estimated 20 to 25 million persons world-wide, forcibly displaced within the borders of their own countries, often in acute need of protection and assistance. Whereas refugees, who total around 13 million, can look to the 1951 Convention Relating to the Status of Refugees and the United Nations High Commissioner for Refugees (UNHCR) for support, internally displaced persons have no comparable international system in place to respond to their needs. True, *ad hoc* arrangements have developed, but large numbers of internally displaced persons remain outside established systems of protection and assistance.

UN Secretary-General Kofi Annan has described the problem as creating 'an unprecedented challenge for the international community: to find ways to respond to what is essentially an internal crisis.' Internally displaced persons, after all, are within their own countries but often fall within a vacuum of responsibility in the state. Too often, their governments are unwilling or unable to provide for their protection and assistance needs, and in some cases there is no government at all. Thus, while primary responsibility for the security and well-being of the displaced rests with their governments, the need for regional and international attention and involvement is often essential.

### **Issue of Sovereignty**

In 1992 the UN Secretary-General, at the request of the Commission on Human Rights, appointed a Representative on Internally Displaced Persons, Dr. Francis M. Deng, a former diplomat and scholar from the Sudan. Deng formulated the doctrine of 'sovereignty as responsibility' as the most suitable conceptual framework for dealing with the problem. It stipulates that when states are unable to provide life-supporting protection and assistance for their citizens, they are expected to request and accept outside offers of aid. Should they refuse or deliberately obstruct access to their displaced or other affected populations and thereby put large numbers at risk, the international community has the right and responsibility to assert its concern. In his dialogues with governments, Deng has repeatedly made the point that sovereignty must mean accountability to one's population and also to the international community in the form of compliance with international human rights and humanitarian agreements.

The three countries of the Southern Caucasus bear, in accordance with their OSCE commitments, the responsibility for protection and promotion of human rights of their citizens. In addition, as with all other OSCE participating States, they are accountable to other participating States. This is enshrined in the OSCE commitments according to which matters related to human rights are of direct and legitimate concern to all participating States.

### **Legal Framework**

To provide the international community with a basis for action, Deng, together with a legal team, developed the Guiding Principles on Internal Displacement. For many years, international organisations and NGOs had pointed to the absence of a document to turn to when dealing with

internally displaced populations. To fill this gap and at the request of the Commission on Human Rights and General Assembly, the Representative studied the extent to which international law provides protection for the internally displaced. A *Compilation and Analysis of Legal Norms*, produced by the legal team, concluded that while existing international law provides substantial coverage for the internally displaced, there are considerable grey areas and gaps in the law. Applicable provisions were, moreover, dispersed in a wide variety of instruments. Following consultations with a wide range of international and regional organisations, NGOs and experts, the legal team recommended the creation of one coherent document that would restate the law, make grey areas explicit, and fill the gaps.

The Guiding Principles on Internal Displacement, finalised in 1998 and introduced to the Commission on Human Rights by Deng, are the first international standards specifically tailored to the needs of the internally displaced. Based on existing human rights and humanitarian law and refugee law by analogy, the thirty Principles set forth the rights of the internally displaced and the obligations of governments, insurgent groups and other relevant actors toward these populations. They apply to all phases of displacement, offering protection prior to displacement (that is, against arbitrary displacement), protection and assistance during displacement and in the return and reintegration phase.

Although not a binding legal document like a treaty, the Principles are based on law that is binding and have gained, in a relatively short period of time, considerable recognition and standing. The Commission on Human Rights, Economic and Social Council (ECOSOC) and General Assembly have adopted resolutions taking note of the Principles and of the Representative's intention to use them in his dialogues with governments, intergovernmental bodies and NGOs. Prior to their presentation to the Commission on Human Rights, the Inter-Agency Standing Committee (IASC), composed of the heads of the major international relief, development and human rights agencies (i.e., UNHCR, World Food Programme (WFP), United Nations Children's Fund (UNICEF), the International Committee of the Red Cross (ICRC) etc.) welcomed and endorsed the Guiding Principles and encouraged its members to share them with their Executive Boards and their staff and to apply them in the field. In his report to ECOSOC in 1998, the Secretary-General listed the Principles as one of the notable achievements in the humanitarian field in 1998. And in a report to the Security Council in September 1999 on the protection of civilians in armed conflict, the Secretary-General recommended that in situations of massive displacement the Security Council encourage States to follow the legal guidance provided in the Principles. In January 2000, the Security Council, in a Presidential statement, took note of the Guiding Principles.

Regional organisations have also begun to take note of and disseminate the Principles. The Organisation for Security and Cooperation in Europe (OSCE) has expressed support for and begun to disseminate the Principles to its field staff and is co-sponsoring the current workshop to promote the Guiding Principles in the South Caucasus. In the Americas, the Inter-American Commission on Human Rights of the Organisation of American States (OAS) has welcomed and expressed its support for the Principles, and in its missions to different countries measures conditions on the ground in terms of the Principles. The Organisation of African Unity (OAU) formally expressed appreciation of the Principles, and several OAU-sponsored seminars have emphasised the importance of the Principles to Africa.

In addition, international and national non-governmental organisations (NGOs) have been publicising and widely circulating the Principles and have organised workshops and meetings in a number of countries, together with regional and international organisations, to discuss how best to implement them in the field. In 1998, a regional conference was held in Addis Ababa, organised by the OAU, UNHCR and the Brookings Institution Project on Internal Displacement. In 1999 a workshop was held in Colombia, in the Americas, by the *Grupo de Apoyo a Organizaciones de Desplazados* - a consortium of Colombian NGOs - in collaboration with the US Committee for Refugees (USCR) and the Brookings Project. A meeting scheduled for Europe in 1999, in particular for local NGOs from Kosovo, and organised by the OSCE, the Open Society

Institute and the Brookings Project, unfortunately had to be cancelled because of the tragic developments there. Also in 1999, country workshops were held in the Philippines and Uganda, organised by the Norwegian Refugee Council (NRC) in collaboration with local NGOs and organisations of displaced persons. Most recently, in February of this year, a regional workshop was convened in Bangkok, Thailand, sponsored by UNHCR, the Brookings Project, Forum Asia, NRC and USCR.

As a result of these efforts, some governments have begun to find the Guiding Principles a useful guide for the development of laws on internal displacement and as a yardstick for measuring conditions in their countries. For many international organisations and NGOs, the Principles have been proving a valuable advocacy tool in their work on behalf of the displaced.

To be sure, the mere existence of a legal document can hardly deter a government from arbitrarily displacing or abusing its citizens. Nonetheless, an acknowledged set of standards has been helping to raise international awareness to the needs of the internally displaced and provide guidance and support to displaced communities and those working on their behalf. It is to be hoped that the Principles in time may begin to act as a deterrent to arbitrary displacement.

### **The South Caucasus Workshop and the Guiding Principles**

The Regional Workshop on Internal Displacement in the South Caucasus, to be convened in Tbilisi, Georgia, is the first regional meeting to be held in the South Caucasus on the Guiding Principles. There are an estimated one million persons internally displaced in the states of Armenia, Azerbaijan and Georgia, primarily as a result of armed conflict -- both international and internal -- which occurred in the region between 1989 and 1994. While the conflicts still lack sustainable political solutions, the situation of internal displacement in the region has largely stabilised in recent years (although some 40,000 persons were forcibly displaced in May 1998 as a result of conflict in and around the town of Gali in the region of Abkhazia, Georgia).

The Guiding Principles quite innovatively formulate a right not to be arbitrarily displaced and prohibit displacement on ethnic, religious or racial grounds. Further, they set forth a broad range of rights addressing the protection and assistance needs of persons once they are displaced. As is clear from Guiding Principles 14-23, protection of the internally displaced encompasses a broad range of economic, social, cultural, civil and political rights. For instance, the right to basic material assistance (food, medicine, shelter), freedom of movement and residence, political rights such as the right to participate in elections and in governmental and public affairs as well as economic rights such as the right to seek employment and participate in economic activities. The importance of these various rights for the internally displaced will be discussed at the workshop.

In the return phase, the Principles not only emphasise the importance of voluntary and safe return but of the need to assist the displaced to recover their property and possessions. When recovery is not possible, the Principles call for compensation or just reparation. The workshop will look at what is required to facilitate and ensure conditions for safe and voluntary return, and discuss issues such as property restitution and compensation. Since the Principles emphasise both return and voluntary resettlement as solutions, the workshop will also examine alternatives to return in the case of protracted displacement. Although there have been some important developments in the search for lasting political solutions to the conflicts in the region, it remains difficult to predict when sustainable peace agreements will be concluded. In the meantime, efforts need to be undertaken to strengthen the capacities of the displaced themselves during this period and to promote their self-sufficiency. To this end, training and education programmes, development projects and economic opportunities need to be explored.

### **Definitional Issues**

The introduction to the Guiding Principles contains a description of internally displaced persons: '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 generalised violence, violations of human rights, or natural or human-made disasters, and who have not crossed an internationally recognised state border.’

The two crucial elements of the definition are coerced or involuntary movement and remaining within one’s national borders. Also included in the definition are the major causes of displacement, although the qualification, ‘in particular’, makes clear that internal displacement is not limited to these causes alone.

The definition tries to strike a balance between too narrow a framework that risks excluding people and one so broad that it could prove operationally unmanageable. While focusing primarily on people who, if they were to cross a border, would qualify as refugees, it also includes people who would not qualify as refugees, for example those uprooted by natural and human-made disasters. The argument for including natural and human-made disasters was based essentially on cases where governments respond to such disasters by discriminating against or neglecting certain groups on political or ethnic grounds or by violating their human rights in other ways.

Persons who migrate because of economic causes do not, however, fall under the definition. Whereas people forced from their homes because of economic injustice and marginalisation tantamount to systematic violation of their economic rights would come under the definition, in most cases of economic migration, the element of coercion is not so clear.

Finally, it should be borne in mind that the term internal displacement is a descriptive one; unlike the refugee definition, it does not confer legal status on the displaced.

### **Institutional Arrangements**

As noted earlier, primary responsibility for the security and well-being of displaced populations lies with the national authorities. However, because governments may lack the capacities to provide protection, assistance or reintegration and development support to their displaced populations, or may fail to do so, the international community has become increasingly involved in these situations. Over the past decade, a multitude of humanitarian, human rights and development organisations have come forward to provide protection, assistance, reintegration and development support to internally displaced persons. These include UNHCR, which regularly becomes involved with at least 5 million internally displaced persons, the ICRC, WFP, UNICEF, the UN Development Programme (UNDP), the World Health Organisation (WHO), the International Organisation for Migration (IOM), the Office for the High Commissioner for Human Rights (OHCHR), and a myriad of NGOs. Most have shown themselves remarkably flexible in interpreting their mandates broadly to encompass internally displaced persons and in developing special expertise and skills to reach displaced people. Nonetheless, the overall response has been often *ad hoc*, with the result that world-wide, large numbers of internally displaced persons go without adequate protection, assistance or reintegration and development support.

Currently there is a wide-ranging debate within and outside the UN about how to improve the international response to situations of internal displacement. Among the options frequently put forward are whether a new agency should be created, whether an existing agency should be assigned the responsibility, or whether the strengthening of collaborative arrangements among agencies whose mandates and activities relate to internally displaced persons is the most practical alternative.

The first option has never garnered support. Neither the political will nor the resources exist to create a new agency. The second option, enlarging the mandate of an existing agency, is more regularly discussed. Indeed, every few years, governments, NGOs or experts put forward the idea that UNHCR should assume the responsibility because of its expertise in providing

protection and assistance to uprooted people. UNHCR, however, considers the magnitude of the problem to great for one agency to shoulder.

The third option, currently in place, and the one garnering the most support, is improved coordination among the different agencies by the Emergency Relief Coordinator (ERC). The UN Secretary-General's 1997 reform programme requested the ERC to serve as central point for coordinating assistance to the internally displaced. The ERC was also asked to ensure that protection needs of the internally displaced are addressed. Since assuming this position in 1998, Sergio Vieira de Mello has made a real effort to try to strengthen existing collaborative relationships and promote a division of labour with regard to the internally displaced. Whether these efforts are translating into improvements on the ground needs to be evaluated.

Particularly troublesome has been the issue of protection of the physical safety and human rights of the internally displaced. Too often, providing, food, medicine and shelter has taken priority over the equally compelling need of persons to be protected against assault, expulsions, forcible conscription, landmines, rape and other egregious human rights abuses. While in some instances, the only way protection may be possible is through military or police action, in other instances, steps can be taken by international organisations on the ground with experience in providing protection. Most humanitarian and development organisations, however, with the exception of ICRC and UNHCR, do not have such experience although many are now exploring measures they can take to enhance protection for displaced populations. Monitoring and reporting mechanisms, increased presence, joint advocacy, reinforcing local capacities and existing coping mechanisms are all means of enhancing protection.

Regional organisations are also beginning to play a role in situations of displacement. The Inter-American Commission on Human Rights of the OAS has appointed a rapporteur on internally displaced persons and as noted above, its missions now measure conditions of the internally displaced in terms of the Guiding Principles. As for the OAU, it has set up conflict prevention machinery to prevent the conditions that cause displacement and its Commission on Refugees has begun to monitor the situation of internally displaced persons. The OSCE also has conflict prevention machinery and has deployed field staff to defuse tensions and promote protection for the internally displaced. In Tajikistan, for example, OSCE field officers brought to the attention of the authorities instances of harassment of internally displaced persons and have taken up individual cases of illegal house occupation to facilitate the return and reintegration of the displaced. The OSCE Assistance Group to Chechnya, once fully deployed in the North Caucasus, is expected to work with the authorities of the Russian Federation on addressing the protection needs of internally displaced persons. Given that OSCE participating States have committed themselves to the principle that matters related to human rights are of direct and legitimate concern to all participating States, issues related to the plight of internally displaced persons may be and have been discussed in the Permanent Council of the OSCE in the context of discussions of the situation in various parts of the OSCE region.

The role that regional and international organisations and NGOs can play in developing strategies for dealing with internal displacement will be discussed at the workshop.

### **Concluding Remarks**

Internal displacement in the South Caucasus shares a common characteristic with many other situations of internal displacement throughout the world, namely its cause -- armed conflict. However, unlike many other situations throughout the world, there exists a certain amount of solidarity between the Governments of Armenia, Azerbaijan and Georgia and their internally displaced populations. Consequently, threats to the life and physical security of the displaced are not the critical issues they are in other contexts. However, protection extends beyond safeguarding physical security to encompass freedom of movement and residence, political participation, and access to housing, education, medical and social services, and economic opportunities. Moreover, the increasingly protracted nature of the displacement and the on-going

lack of durable political solutions to the conflicts of the South Caucasus region necessitate a reappraisal of priorities for the displaced so that their lives become more self-sufficient and sustainable in their new environments.

By identifying the patterns and trends of internal displacement in the region and the applicability of the Guiding Principles on Internal Displacement to the problem, the South Caucasus workshop hopes to raise consciousness to the issue and encourage more effective national, regional and international strategies for promoting protection, assistance and durable solutions for the displaced.