

# **INTERNATIONAL CONFERENCE ON INTERNAL DISPLACEMENT IN THE RUSSIAN FEDERATION**

**Sponsored by the Institute of State and Law of the Russian Academy of Sciences,  
Partnership On Migration and the Brookings Institution-CUNY Project on Internal  
Displacement**

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## **BACKGROUND MEMORANDUM**

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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 as a result of armed conflict and human rights violations, and who are often in acute need of protection and assistance. Whereas refugees, who total around 12 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.

## **Legal Framework**

To provide the international community with a framework for action, the Representative, together with a team of international legal experts, 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 the 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 in the law explicit, and fill identified gaps.

The Guiding Principles on Internal Displacement, finalised in 1998 and introduced to the Commission on Human Rights by the Representative of the Secretary-General, 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 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.) and NGO umbrella groups, 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 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. A Presidential statement of the Security Council in January 2000 made reference to the Principles as did a Security Council resolution. More recently, the Programme of Action adopted in September 2001 at the World Conference Against Racism encourages the bodies, agencies and relevant programmes of the UN system and states to promote and to make use of the Guiding Principles, particularly those provisions relating to non-discrimination.

### **Application of the Guiding Principles**

Both the UN Commission on Human Rights and the General Assembly have noted with appreciation that an increasing number of States, as well as UN agencies, and regional and non-governmental organisations are making use of the Guiding Principles. Some Governments have found the Principles to be a useful guide for the development of laws on internal displacement and as a yardstick for measuring conditions in their countries. Indeed, some have directly incorporated the Principles into their national law, cite the Principles in their published materials, use them in their public awareness campaigns, and make them a centre of local protection strategies in collaboration with the UN. In the Southern Caucasus, Government officials in Armenia, Azerbaijan and Georgia have held dialogues with the Representative on the basis of the Principles and have participated in seminars on the application of the Principles in their sub-region. The Government of Armenia has translated the Principles into Armenian and the Government of Georgia has announced at the UN its intention to reform parts of its domestic law so that it conforms with the Principles.

Regional organisations in Europe, the Americas and Africa have been using the Principles as well as a basis for measuring conditions on the ground, and have sponsored workshops featuring the Principles. In September 2000, the Organisation for Security and Cooperation in Europe (OSCE) held a supplementary human dimension meeting on migration and internal displacement. A principal goal of the seminar was to elaborate ways in which OSCE institutions, field operations and participating States could enhance their response to internal displacement, in particular through the practical application of the Guiding Principles. Among its recommendations, the meeting called for the integration of the internal displacement issue into the activities of the OSCE, using the Guiding Principles as a framework for doing so. It also recommended that heads of field missions evaluate their operational activities according to the Guiding Principles and that they also be used to monitor and review new and protracted situations of displacement. These recommendations were subsequently reiterated by a number of Governments and NGO delegates at the OSCE Human Dimension Implementation meeting in Warsaw in September last year.

Earlier that month, the Committee on Migration, Refugees and Demography of the Parliamentary Assembly of the Council of Europe held a seminar in Geneva on internal displacement in Europe and the application of the Guiding Principles, co-hosted by the Representative, the Office of the High Commissioner for Human Rights and the Brookings-CUNY Project. As follow-up to the seminar a report is being drawn up by the Committee containing recommendations to Council Member States in support of the

Principles, including a recommendation from the Parliamentary Assembly to the Committee of Ministers that it invite Member States to observe the Principles and include their provisions in national legislation if this has not yet been done.

For NGOs, the Principles are an important tool for bringing about improved treatment for internally displaced persons and they are actively using them in countries throughout the world to monitor, assess and advocate for the needs of the internally displaced. Some national NGOs employ the Principles as a benchmark against which to monitor and evaluate national policies and legislation, and use them to promote and strengthen dialogue with Governments on the rights of internally displaced persons. Others have organised meetings together with regional and international organisations to discuss how best to implement the Principles in the field. In the South Caucasus, teams of lawyers from Armenia, Azerbaijan and Georgia have been reviewing their national legislation in terms of the Principles and identifying areas in need of reform in a process sponsored by ODIHR/OSCE, the Georgian Young Lawyers Association (GYLA) and the Brookings-CUNY Project.

Displaced communities too have begun to use the Principles to enhance protection for their own communities. To facilitate this, the Principles have been translated into many different languages, including Russian. Also, the UN has published and is disseminating a *Handbook* on how to apply the Principles in the field and which is now available in Russian. In addition, because of the great interest in the Principles and their interpretation, *Annotations* were prepared by Professor Walter Kälin who chaired the process leading to their development.

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.

### **The International Conference on Internal Displacement in the Russian Federation and the Guiding Principles**

The conference in Moscow is one of a series of meetings being held since 1998 in Europe, Africa, Asia and the Americas to mobilize national, regional and international attention to the plight of internally displaced persons and encourage more effective solutions. Indeed, UN resolutions in 2001 have called upon the Representative of the Secretary-General "to initiate or support such seminars in consultation with regional organisations, intergovernmental and non-governmental organisations and other relevant institutions and to provide support for efforts to promote capacity-building and use of the Guiding Principles." In Europe, to date, seminars have been held in Armenia, Azerbaijan and Georgia and a Lecture Series in Albania, Bulgaria and Macedonia.

The conference in the Russian Federation has been organised because according to the US Committee for Refugees, at the end of the year 2000, there were more than 491,000

persons internally displaced within the Russian Federation. These included more than 370,000 persons displaced in 1999 and 2000 by the conflict in the Republic of Chechnya (of which about 170,000 were inside Chechnya, 160,000 in the neighboring republic of Ingushetia, 20,000 in neighboring Dagestan, and 20,000 elsewhere in the region); some 106,000 persons displaced during the previous (1994-96) war in Chechnya, mostly ethnic Russians, who were registered with the then Ministry of Federal Affairs, Nationality and Migration Policy as 'forced migrants'; and about 15,000 'forced migrants' in Ingushetia who were displaced in 1992 during the conflict over the disputed Prigorodny region of North Ossetia.

## **Definitional Issues**

The introduction to the Guiding Principles contains a description of internally displaced persons as '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. 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 rationale 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. It should be borne in mind also that the term internal displacement is a descriptive one; unlike the refugee definition, it does not confer legal status on the displaced.

The issue of definition is a particularly important one in the context of the Russian Federation in view of the use of the term 'forced migrant' in Russian legislation. In short, the term 'forced migrant' is used to refer to internally displaced persons in much the same sense as that used in the Guiding Principles, i.e., citizens of the Russian Federation who are displaced as a result of armed conflict, situations of generalised violence and human rights violations but who have not crossed an international border. At the same time, however, it is also used to refer to ethnic Russians who have returned to the Russian

Federation from former states of the Soviet Union. The particular issues which this gives rise to will be discussed during the conference.

### **Prevention, Protection and Return or Resettlement**

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 civil, political, economic, social and cultural rights. For instance, the rights to physical security, basic material assistance (food, medicine, shelter), freedom of movement and residence. The importance of these and other rights for the internally displaced will be discussed at the conference.

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 conference 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.

### **Institutional Arrangements**

As noted earlier, primary responsibility for the security and well-being of displaced populations lies with the national authorities. The conference will therefore examine the local and national response to internal displacement and how this could be made more effective. It will also look at the important role NGOs and civil society can play at the national level to promote greater attention to the needs of internally displaced persons.

Further, it will look at the international and regional response. Because Governments often 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 situations of internal displacement. Indeed, over the past decade, a multitude of humanitarian, human rights and development organisations have come forward to try to provide protection, assistance, reintegration and development support to internally displaced persons worldwide. These include UNHCR, 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. Nonetheless, the overall response has not always been as effective as it might, with the result that world-wide, large numbers of internally displaced persons go without adequate protection, assistance or reintegration and development support.

In recent years, there has been 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 for

internally displaced persons, 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 third option, currently in place, is the one that has garnered the most support - that is, improved coordination among the different agencies by the Emergency Relief Coordinator (ERC). The ERC is the UN's central point for coordinating assistance to the internally displaced and also has been asked to ensure that protection needs of the internally displaced are addressed. Over the past two years, steps have been taken to increase the effectiveness of this arrangement with the establishment of a Senior Inter-Agency Network on Internal Displacement and, subsequently, an Internal Displacement Unit within the Office for the Coordination of Humanitarian Affairs (OCHA) which is charged with undertaking systematic reviews of selected countries to assess international efforts to meet the assistance and protection needs of internally displaced persons; and making recommendations for improved response. The extent to which these efforts translate into improvements on the ground will need 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.

At the same time, international humanitarian workers have encountered threats to their own security in trying to provide assistance and protection to displaced populations. They have found not only their access restricted by both Governments and insurgent groups at different times but have experienced threats and assaults on their personal security and safety. Indeed, in a number of instances, they have been compelled to withdraw from situations of displacement. The subject of the safety of displaced populations and also the humanitarian workers trying to reach them will be discussed at the conference.

Regional organisations are also beginning to play an increased role in situations of displacement. The Organisation for Security and Cooperation in Europe's (OSCE) Assistance Group to Chechnya was recently redeployed to Chechnya. Its mandate includes the promotion and protection of human rights, facilitating the delivery of humanitarian assistance, and promoting the peaceful resolution of the crisis. Another regional organisation active in regard to the crisis in Chechnya and which seeks to respond to the plight of the internally displaced is the Council of Europe, in particular through the activities of the Committee on Migration, Refugees and Demography of the

Council's Parliamentary Assembly, as well as the Council's High Commissioner for Human Rights. The role that regional and international organisations and NGOs can play in developing strategies for dealing with internal displacement will be discussed at the conference.

### **Concluding Remarks**

Internal displacement in the Russian Federation shares a common characteristic with many other situations of internal displacement throughout the world, namely its cause - armed conflict. Unlike other situations however, internal displacement in the Russian Federation is not the result of a single conflict but from different conflicts at different periods in time. As a result, the specific needs of the displaced differ depending on from which conflict and during which period they became displaced. By identifying the patterns and trends of internal displacement in the Russian Federation and the applicability of the Guiding Principles on Internal Displacement to the problem, the conference 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.