

Background Paper
Conference on Internal Displacement in the IGAD Region
Khartoum, Sudan, August 30 – September 2, 2003

Introduction

Over one hundred armed conflicts have been recorded worldwide since the end of the Cold War,¹ yet the number of refugees has declined from a high of approximately 18 million in 1992,² to approximately 11 million today.³ Unfortunately, these contrasting statistics do not speak to a reduction in the amount of population displacement. During the same period, the number of internally displaced persons has risen from approximately 16 million in 1989⁴ to a current estimate of 25 million in 50 countries.⁵

Governments bear the primary responsibility to ensure the assistance and protection of internally displaced persons as a crucial element of their sovereignty. However, the conditions that contribute to displacement in the first instance – e.g. war, social upheaval, and natural disaster (such as the ongoing drought in the Horn of Africa) – often impede governments' abilities to react effectively. Regional and international organizations, and their member states acting in mutual support, can therefore have a useful role to play in supporting governments to address the issues of internal displacement and to ensure the rights of the displaced.

This conference will take important steps toward identifying such a role for IGAD and its member states. Its purposes are to review the causes, consequences and trends of internal displacement in the region, discuss the Guiding Principles on Internal Displacement and their application to these circumstances, support the IGAD countries in developing and implementing effective policies, laws and institutions for dealing with internal displacement, and explore the role that IGAD as a regional organization can play. To supplement discussions on these issues, this paper will provide a brief overview of displacement in the region, discuss the background, content and increasing use of the Guiding Principles on Internal Displacement, and review examples of what other regional organizations have done to address internal displacement in their regions.

Overview of Displacement in the IGAD Region

A staggering proportion of the world's internally displaced persons, more than one-fifth of the global total, is found in the countries of the IGAD Region. Sudan is particularly affected, with an estimated 4 - 4.5 million internally displaced.⁶ However, significant internally displaced populations can also be found in Uganda (600,000-840,000), Somalia (350,000), Kenya (230,000), Ethiopia (90,000-329,000) and, to a lesser extent, Eritrea (58,000 – 75,000).⁷ Most of the internal displacement in the IGAD region has occurred in the context of armed conflict, either from civil wars, such as the decades-long war in Sudan, the linked internal conflict in Uganda, and the disastrous conflict in Somalia, or from inter-state conflicts as between Ethiopia and Eritrea. However, a significant proportion of internal displacement throughout the region can also be attributed to natural disasters, most notably drought and floods, as well as violence not amounting to full-scale war, such as the inter-ethnic feuding in Kenya.

Sudan is not only the most affected country in the region (hosting more than 70% of the area's internally displaced population), but has the highest number of internally displaced of any country in the world.⁸ A substantial number of southern Sudanese have fled to Khartoum, with many of them now in encampments on the outskirts of the main city, where they face serious hardship, lack of access to employment, limited safe drinking water, food insecurity and disease.⁹ Elsewhere in the country, in particular in the south, where years of fighting have destroyed productive assets, displaced persons frequently suffer continued physical danger and lack of food, water and shelter, in particular when

access by humanitarian agencies is restricted.¹⁰ However, peace talks between the government and the Sudanese People's Liberation Movement/Army (SPLM/A) have led to renewed hopes that the civil war might be ended and that return might be a real possibility for the millions of internally displaced persons. Indeed, efforts to foster inter-communal peacemaking and IDP returns in the Abyei area have brought promising results.¹¹

In Uganda, fighting between the government and the rebel Lord's Resistance Army (LRA) in the north of the country, and deliberate attacks on civilians by the LRA have been the primary cause of internal displacement in the country and a continuing barrier to its resolution.¹² Lack of security remains a primary issue for these internally displaced, especially children, who are subject to continuing abduction and recruitment raids on displaced persons camps by the LRA.¹³ Moreover, displaced persons living in these camps are in dire need of basic access to education, health, water and sanitation.¹⁴

The conflict in Somalia is longstanding and has caused enormous displacement, both internal and external, as competing factions have sought dominance over various parts of the country. The number of displaced is much lower today than its height in 1992 when there were 2 million internally displaced, but new displacement continues as a result of renewed fighting, drought, and other causes.¹⁵ Most of the displaced come from marginalized ethnic groups, and three-fourths are women and children.¹⁶ Access to humanitarian assistance is extremely limited, particularly for those living in peri-urban areas, and discriminatory violence and human rights abuses against the internally displaced are common.¹⁷

In both Ethiopia and Eritrea, many of the displaced fled their homes during the border war that erupted between these countries in 1998.¹⁸ In Eritrea, the vast majority of those displaced by the conflict have been able to return, but the drought has caused new displacement for several thousands of persons, and delays in final border demarcation, mine clearing, and rehabilitation are contributing to the delay in return of the remaining conflict-displaced.¹⁹ In Ethiopia, many of the conflict-displaced remain unable to return for similar reasons, as well as limited access to farming land, while drought and floods have caused significant new displacement.²⁰

Finally, in Kenya, displacement has resulted from communal violence related to ethnic tension and land disputes fuelled by political parties in the 1990s.²¹ Living conditions for the internally displaced are reportedly poor, with many living in temporary camps, to which access by humanitarian organizations is sometimes denied, and others subsisting in urban environments for which they lack necessary coping and job skills.²² Returns have been hampered by issues of property entitlement, including nationalization of properties, lack of documentation, and the results of sales of land under duress.²³

In light of the many problems faced by the internally displaced, coordinated and effective national policies focused on the internally displaced could be of significant aid to strengthening government response. Both Uganda and Sudan have taken important steps in this regard. As these and other IGAD member states contemplate appropriate policies, and national human rights institutions seek to enhance implementation of these policies, it is useful to look to the existing normative framework for the internally displaced at the international level.

The Guiding Principles on Internal Displacement

The Guiding Principles on Internal Displacement²⁴ are the first international standards specifically tailored to the needs of internally displaced persons. They have been recognized at the national, regional and international levels as an important and practical tool for policy-making, monitoring, and empowering the internally displaced themselves.

They are the direct outcome of the creation in 1992 of the mandate of the Representative of the Secretary-General on Internally Displaced Persons, who was appointed at the request of the United Nations Commission on Human Rights. Dr. Francis M. Deng, who has held this post since its inception, was charged with examining the existing normative framework for internally displaced persons in light of their particular needs. Working with a team of legal experts, Dr. Deng undertook a comprehensive study of existing international law affecting the internally displaced, resulting in the “Compilation and Analysis of Existing Norms,” published in two parts in 1996²⁵ and 1998.²⁶ This study concluded that existing human rights and humanitarian law provided adequate coverage for internally displaced persons’ protection and assistance needs in many areas, but determined, in light of the existence of some grey areas and gaps in the coverage of specific needs, as well as the diffusion of the relevant provisions among multiple instruments, that a comprehensive framework focused on the internally displaced should be developed.

Accordingly, at the request of the Commission and the General Assembly,²⁷ the Representative and his legal team developed the Guiding Principles. The Guiding Principles mainly restate existing international law, but, in a few instances, also apply and interpret the law to clarify its effect in the particular circumstances of the internally displaced. Thus, for instance, although no international treaty explicitly states that internally displaced persons may not ordinarily be confined to camps, Guiding Principles 12(2) and 14 assert such a rule as an obvious implication of the right of free movement, which is recognized in all the major international human rights instruments.²⁸

The Guiding Principles apply to all three “phases” of displacement: prevention, protection and assistance during displacement, and return, resettlement and reintegration. They prohibit arbitrary displacement, including apartheid, ethnic cleansing, or military evacuations in the absence of threat to the safety of the civilians or imperative military reasons.²⁹ 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, including the right to basic humanitarian assistance (food, medicine, shelter), the right to be protected from physical violence, the right to education, freedom of movement and residence, political rights such as the right to participate in public affairs and the right to participate in economic activities. In the solutions phase, the Guiding Principles not only emphasize the importance of voluntary return in safety and dignity, resettlement or local integration, but of the need to assist the displaced to recover their property and possessions or, when restitution is not possible, compensation or just reparation.

The Guiding Principles, pay special attention to the special needs of women and children. The Principles also acknowledge that certain internally displaced persons may require particular attention - especially unaccompanied minors; expectant mothers, mothers with young children and female heads of household; persons with disabilities; and elderly persons.

Since the Principles were first presented in 1998, various UN organs, including the Commission on Human Rights, the Economic and Social Council and the General Assembly, have expressed their appreciation for the Representative’s use of them in his dialogues with governments, intergovernmental bodies and non-governmental organizations, and this activity has been expressly noted by the Security Council.³⁰ The heads of the major international humanitarian agencies, acting through the Inter-Agency Standing Committee welcomed and endorsed the Guiding Principles, and have encouraged their members to share them with their staff and apply them in the field.³¹ As described in further detail below, regional organizations have also expressed support for the Guiding Principles and put them to use in their efforts on behalf of the internally displaced.

Most importantly, the utility of the Guiding Principles is beginning to be demonstrated at the national level. Several governments, including Angola, Burundi, and Colombia have expressly incorporated the

Guiding Principles into domestic law. Others, such as Uganda have promulgated a national policy based on the Guiding Principles. Afghanistan and Peru are also currently contemplating the development of a policy based on the Principles. In still other states, NGOs and members of civil society have used the Guiding Principles as a framework for analyzing existing law and policy, and even some non-state actors, including the SPLM/A, have begun to look to the Guiding Principles as a guide for protecting and assisting the internally displaced persons in their zones of influence.³²

The Guiding Principles have been translated into 32 languages, including Arabic, French, Somali and Swahili.³³ In addition, a secondary literature, actively supported by the Representative, has developed to guide in the interpretation and application of the Guiding Principles on the ground.³⁴

Regional Responses to Internal Displacement

While circumstances differ, many regional organizations share similar goals in promoting political stability, facilitating peaceful resolution of conflicts, encouraging economic cooperation, and sharing information and resources to tackle regional problems. Members of a number of these organizations have realized in recent years that situations of internal displacement, though ostensibly a domestic problem, can be rooted in regional as well as national dynamics, and that displacement crises can be destabilizing both politically and economically across borders. They have therefore been exploring their potential in supporting national responses to internal displacement.

In Africa, the Organization of African Unity (OAU), now reconstituted as the African Union (AU), has held a series of meetings on internal displacement, designed to make its member states more aware of and more involved in resolving the problem. In 1994, the OAU Commission on Human and Peoples' Rights held a seminar on the protection of African refugees and internally displaced persons. That same year, the OAU together with the United Nations High Commissioner for Refugees (UNHCR) organized a regional symposium on refugees and forced population displacements.³⁵ Both meetings recommended greater OAU involvement in addressing internal displacement, in tackling its root causes, and in forging stronger linkages between conflict resolution activities and programs on behalf of refugees and internally displaced persons.

Subsequently, in 1996, the OAU co-sponsored a regional conference with UNHCR on displacement in the Great Lakes region of Africa. In 1998, in collaboration with the Representative, the Brookings Project on Internal Displacement and UNHCR, the OAU cosponsored a workshop in Addis Ababa on internal displacement in Africa to promote more effective strategies for protecting and assisting internally displaced persons.³⁶ The workshop was the first to recommend that the OAU establish a focal point on internal displacement to collect data on the problem and monitor, disseminate and implement the Guiding Principles. OAU staff were interested in having a focal point but resources to date have been a prohibitive factor.

Over the past few years, the OAU Commission on Refugees, Returnees and Displaced Persons has also begun to monitor conditions of internally displaced persons in its visits to different countries. In 1999, it formally acknowledged with appreciation the Guiding Principles on Internal Displacement. And the "Compendium of OAU Instruments and Texts on Refugees, Returnees and Displaced Persons in Africa," published in 2000, includes the text of the Guiding Principles.

ECOWAS has also given attention to the issue of internal displacement. In April 2000, at the Conference on War-Affected Children in West Africa, ECOWAS ministers adopted a declaration, which welcomed the Guiding Principles and called for their application by ECOWAS member states. This declaration was subsequently adopted at the ECOWAS Summit of Heads of State and Government in December 2000. In September 2002, the office of the Representative and the Brookings-SAIS Project on Internal Displacement joined a seminar on migration in West Africa for ECOWAS member states, sponsored by ECOWAS and the International Organization for Migration

(IOM) and held in Dakar.³⁷ Among the recommendations emerging from the seminar was the development of national laws on internal displacement using the Guiding Principles as a framework.

At a follow-up conference on migration policy in East Africa, the Horn and the Great Lakes region, organized by The International Migration Policy Programme (IMP) in collaboration with the African Union, governments reaffirmed their commitment to the Nairobi Conclusions, adopted at a conference held in 2002, to enhance national protection capacities with respect to internally displaced persons. They reported back on actions undertaken in the area of protection of internally displaced persons and other vulnerable groups in the period between the IMP Nairobi Conference (2002) and the Addis Ababa Follow-up Conference (2003). Reports included steps taken toward national legislation that has been adopted or is in the process of being adopted; accession and/or commitment to accede to international instruments; and the need for training of personnel who are responsible for refugees and internally displaced persons. Finally, Governments reaffirmed their commitment to the Guiding Principles as a useful tool and standard for addressing situations of internal displacement.³⁸

Important work in this regard is also taking place in other parts of the globe. The Organization of American States (OAS) has been particularly active, becoming the first regional body to appoint a focal point for internal displacement in 1996. Its Inter-American Commission on Human Rights, a body of experts, made one of its members a Special Rapporteur for internally displaced persons “in recognition of the grave situation of internally displaced persons in several countries of the Hemisphere.” In addition in 1998, the Inter-American Commission formally endorsed the Guiding Principles on Internal Displacement as an authoritative guide to applicable international law. It now uses them as a checklist for evaluating conditions in different countries.

In Europe, the Organization for Security and Cooperation in Europe (OSCE), in September 2000, devoted an all-day meeting to migration and internal displacement in order to identify ways in which OSCE institutions, field operations and participating states could enhance their response to internal displacement. That same year, the OSCE Chair outlined areas in which the OSCE could make a contribution. Of particular relevance to IGAD is the recommendation that OSCE staff begin to monitor and report on affected populations, provide advice to governments on national laws and best practices, disseminate the Guiding Principles within the region and use them in the activities of the organization. The OSCE also recently collaborated with the Brookings Project on Internal Displacement and the Georgian Young Lawyers Association in organizing reviews of national legislation in Georgia, Armenia and Azerbaijan in light of the Guiding Principles. A book reflecting the findings of these reviews was published this year.³⁹ In July 2003, the OSCE’s Parliamentary Assembly adopted a declaration urging OSCE Ministers to consider “endorsement of the UN Guiding Principles on Internal Displacement or the adoption of key aspects of those Guiding Principle as OSCE commitments.”⁴⁰

Another European regional organization, the Council of Europe, whose main focus is human rights, undertakes fact-finding missions to areas of displacement, publishes reports, adopts resolutions, and deploys experts to the field. In September 2001, the Parliamentary Assembly’s Committee on Migration, Refugees and Demography, together with the Representative, the Office of the UN High Commissioner for Human Rights and the Brookings Project on Internal Displacement, jointly convened a seminar on internal displacement and application of the Guiding Principles in Europe. As a follow-up to this meeting, the Committee has appointed a rapporteur on internal displacement and is preparing a report containing recommendations to Council of Europe member states, for consideration by the Assembly.

As can be seen, regional organizations have clearly undertaken initiatives to deal with the problem of internal displacement, but far more can and should be done by each of these organizations. Nonetheless, their efforts have at least demonstrated that important first steps can be taken, such as holding conferences, appointing focal points, monitoring situations, sending field missions, and

promoting policies and norms consistent with international human rights standards, as conveniently set forth in the Guiding Principles, even where resources are scarce.

Conclusion

Internal displacement is a pressing issue in nearly every IGAD state. Much remains to be done at the national level to effectively address the protection and assistance needs of the internally displaced and to set the stage for durable solutions to their plight. To reinforce these efforts, regional and international policies and programs can prove valuable. This conference is a pioneering effort by IGAD to explore the regional dynamics of the problem in eastern Africa and to find means to cooperate in finding solutions. In doing so, participants can benefit from the example of regional efforts elsewhere and from the normative framework laid out in the Guiding Principles on Internal Displacement, recognized across the globe as a useful tool for formulating, evaluating, and monitoring national policy and laws on internally displaced persons.

Prepared by the Office of the Representative of the Secretary-General on Internally Displaced Persons.

¹ See Peter Wallensteen & Margareta Sollenberg, “Armed Conflict, 1989-2000,” *Journal of Peace Research* 38 (5): 629-644.

² See UNHCR, *WORLD REFUGEE REPORT*, 310 (2000).

³ The most recent figures are for 2002. See 2002 UNHCR Population Statistics (Provisional), Population Data Unit, PGDS/DOS (4 August 2003), available at <http://www.unhcr.ch>.

⁴ National Intelligence Council, Global Humanitarian Emergencies: Trends and Projections, 2001-2002, figure 3, available at <http://www.cia.gov/nic/pubs/index.htm>.

⁵ See Norwegian Refugee Council, Global IDP Project Database, www.idpproject.org (hereinafter “Global IDP Project Database”). These figures include only those displaced by armed conflict, generalized violence, and human rights abuses.

⁶ Sources for the number of displaced persons in the IGAD region vary significantly. The ranges cited here are derived from the United States Committee for Refugees, *World Refugee Survey 2003* (hereinafter “*World Refugee Survey*”), and the Global IDP Project Database.

⁷ *Id.* These sources report no population of internally displaced persons in Djibouti.

⁸ *World Refugee Survey*, 7.

⁹ See Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng, submitted pursuant to Commission on Human Rights Resolution 2002/56, Addendum 1, UN Doc. E/CN.4/2003/86/Add.1 ¶¶ 18-25 (hereinafter, “RSG Sudan Report 2003”); Norwegian Refugee Council, *Internally Displaced People: A Global Survey*, 74-78 (2d. ed. 2002) (hereinafter, “Global Survey”).

¹⁰ See *Global Survey* at 74-78.

¹¹ See RSG Sudan Report 2003, ¶¶ 28-34.

¹² See *Global Survey* at 79. Additional pockets of displacement also exist near the western border and in the east of the country. See Global IDP Project Database.

¹³ See Office of the High Commissioner for Human Rights Press Release, Rights Expert Expresses Determination to Raise Awareness of Internal Displacement in Uganda (Aug. 15, 2003) (reporting on Dr. Deng’s recent mission to Uganda).

¹⁴ *Id.*

¹⁵ See Global IDP Project Database.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ See *id.*; *World Refugee Survey*, 78.

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- ²² See *Global Survey* at 54-55.
- ²³ *Id.*
- ²⁴ U.N. Doc. E/CN.4/1998/537Add.2.
- ²⁵ U.N. Doc. E/CN.4/1996/52/Add.2.
- ²⁶ U.N. Doc. E/CN.4/1998/53/Add.1.
- ²⁷ See, for example, Commission on Human Rights Resolution E/CN.4/RES/1996/52 ¶ 9 (19 April 1996) (“call[ing] upon the representative of the Secretary-General to continue on the basis of his compilation and analysis of legal norms, to develop an appropriate framework in this regard for the protection of internally displaced persons”)
- ²⁸ See Walter Kälin, *Guiding Principles on Internal Displacement : Annotations*, American Society of International Law Studies in Transnational Legal Policy No. 32, 31-33 & 36-36 (2000) (hereinafter, “Guiding Principles Annotations”).
- ²⁹ Guiding Principle 6.
- ³⁰ See Report of the Representative of the Secretary-General on Internally Displaced Persons, Francis M. Deng, submitted pursuant to Commission on Human Rights Resolution 2002/56, UN. Doc. E/CN.4/2003/86 ¶¶ 15-20 (hereinafter, “2003 CHR Report”).
- ³¹ *Id.*
- ³² See Brookings-SAIS Project on Internal Displacement, *Seminar on Internal Displacement in Southern Sudan* (November 25, 2002), available at http://www.brookings.edu/fp/projects/idp/conferences/rumbek_report_20021125.htm.
- ³³ The Arabic and French versions are available on the website of the Office of the High Commissioner for Human Rights (http://www.unhchr.ch/html/menu2/7/b/principles_lang.htm). Versions in Somali or Swahili, or other languages, are available at: <http://www.idpproject.org/training.htm>
- ³⁴ See, e.g., Brookings Institution Project on Internal Displacement, *Handbook for Applying the Guiding Principles on Internal Displacement* (1999), available at Inter-Agency Standing Committee, <http://www.reliefweb.int/idp/docs/references/handbookGPonIDP.pdf>; *Manual on Field Practice in Internal Displacement* available at http://www.reliefweb.int/ocha_ol/pub/IDPManual.pdf; Walter Kälin, “How Hard is Soft Law? The Guiding Principles on Internal Displacement and the Need for a Normative Framework,” Statement at the Ralph Bunche Institute for International Studies Roundtable, New York, December 19, 2001, available at <http://www.brookings.edu/dybdocroot/fp/projects/idp/articles/WKPresentation12-19.htm>; and the Guiding Principles Annotations available at http://www.asil.org/study_32.pdf. For information about obtaining hard copies of these publications, contact David Fisher at + 41 22 917 9127 or dfisher@ohchr.org.
- ³⁵ See Roberta Cohen & Francis M. Deng, *Masses in Flight: The Global Crisis of Internal Displacement*, 217 (Brookings, 1998).
- ³⁶ For a summary, go to <http://www.brookings.edu/fp/projects/idp/conferences/contents.htm>.
- ³⁷ *Id.*
- ³⁸ See The International Migration Policy Programme, *Summary Report and Conclusions*, Follow-Up Conference to the International Migration Policy Conference for East Africa, the Horn of Africa and the Great Lakes Region, (June 2003).
- ³⁹ See The Guiding Principles on Internal Displacement and the Law of the South Caucasus: Georgia, Armenia and Azerbaijan (Walter Kälin, Roberta Cohen and Erin Money, eds., American Society of International Law, 2003).
- ⁴⁰ The Rotterdam Declaration, OSCE Parliamentary Assembly, July 2003.