

Background Paper

Introduction

In 1982 when the magnitude of global internal displacement was first assessed, there were a reported 1.2 million internally displaced persons (IDPs) in 11 countries. More than twenty years later, there are an estimated 25 million internally displaced persons in 52 countries around the globe. While in 1982 refugees outnumbered IDPs by a factor of 10 to one, there are now twice as many IDPs as there are refugees.

Governments, as a crucial element of their sovereignty, bear the primary responsibility for ensuring that the protection and assistance needs of the internally displaced are met. In 1992, Francis Deng, the Representative of the United Nations Secretary-General on Internally Displaced Persons, introduced the formulation of “sovereignty as responsibility” as the conceptual framework for dealing with the problem of internal displacement. According to this concept, governments are primarily responsible for providing life-supporting protection and assistance for internally displaced persons on their territories, but when they are unable to do so, they are expected to request and accept outside offers of aid. Further, the international community has the right and even the responsibility to assert its concern and assist the displaced if the state is unable or unwilling to do so. At times the conditions that contribute to displacement in the first place and the sheer magnitude of the problem can impede governments’ abilities to react effectively. Regional and international organizations, international and national non-governmental organizations, national human rights commissions, as well as IDP associations, can play a useful role in working together with governments to address the complex protection, assistance and reintegration and development concerns of the displaced and make certain that their rights are respected.

Purpose of the Seminar

The seminar will identify the current trends in internal displacement in the Americas and examine national, regional and international responses. It aims to promote a greater understanding of displacement in the Americas and to help identify effective policies and practices for addressing the current protection, assistance, reintegration and development needs of IDPs in the region. To supplement the discussions on these issues, this paper will provide a brief overview of internal displacement in the region, discuss the content and reception of the Guiding Principles on Internal Displacement, the innovative institutional frameworks developed in the Americas, and introduce the current challenges that will be addressed at the seminar.

Internal Displacement in the Americas

An estimated 12 percent of the world's internally displaced persons are found in the region of the Americas. While the magnitude of the problem is small compared to other regions of the world, such as Africa, it is important to emphasize that the level of suffering of this population is profound and should not be minimized. The civil wars of the 1980s and early 1990s in the Americas displaced more than two million people. By the end of the 1990s, these figures had fallen dramatically because the establishment of peace in several countries led to returns of many of those displaced. As the number of internally displaced persons dropped, the international spotlight on the region's displaced persons shifted to other areas of the world. Yet, displacement continues to plague the Americas and those affected suffer greatly.

The Norwegian Refugee Council's Global IDP Project reports that some 3.3 million persons remain internally displaced in the Americas. In some countries, like Peru and Guatemala, the displaced mainly face the challenges of post-conflict return and reintegration, whereas in Mexico, the displaced continue to have compelling protection and assistance needs, although their numbers are comparatively small. The country with the most acute problem is Colombia. With over 2 million persons displaced (official estimates are more than one million, while some NGOs estimate that the actual number may be closer to 3 million), Colombia contains the largest IDP population in the Western Hemisphere and the third largest IDP population in the world, with new displacements continuing.

Displacement in Colombia is mainly caused by political violence associated with a 40 year armed conflict that is characterized by serious violations of international human rights and humanitarian law. In Colombia, displacement is not merely incidental to the armed conflict but is a deliberate strategy of war. The armed groups rarely confront each other directly but most often settle scores by attacking civilians suspected of being with the "other" side, thus forcing persons who are not involved in the conflict to flee due to threats and attacks. Armed groups also induce displacement in order to control strategic areas of the country for economic and political purposes.

Protection from arbitrary displacement and during the various phases of displacement remains the primary concern for Colombia's internally displaced. A disproportionate number of the displaced are ethnic minorities who are of African descent or belong to indigenous groups. In addition to experiencing the difficulties associated with displacement, they also suffer from discrimination in areas of refuge. Moreover, because indigenous populations have a special dependency on and attachment to their lands, displacement results in the loss of their specific cultural and land rights. Increasingly, the displaced from rural areas seek safety in urban environments. Many of the displaced live in poor conditions and lack sufficient food, medical attention, the necessary documents needed to obtain vital assistance and to exercise their full rights as citizens, and access to sustainable income generating activities. Many continue to come under suspicion or even suffer discrimination for the mere fact of being internally displaced. At the same time, IDPs throughout Colombia are highly organized and very active in trying to remedy their situation. However, by doing so they are at higher risk of harm. IDP leaders and persons who work on behalf the displaced often face serious security threats.

Displacement in Mexico has multiple causes, with the conflict in Chiapas being the primary source of displacement. Other sources of displacement include land disputes, religious

intolerance, development projects and natural disasters. According to Government sources, estimates place the number of IDPs in Chiapas at 12,000, with larger scale displacement having taken place in the mid-1990s. Women and children IDPs suffer from malnutrition and food shortages. Protection from intimidation and harassment by armed groups and basic assistance needs are issues of particular concern to Mexico's IDPs.

Displacement in Peru was mainly caused by the violence generated by the Shining Path insurgency and the counterinsurgency efforts of the Peruvian armed forces during the 1980s and 1990s. An estimated 600,000 to a million persons became internally displaced as a result of the violence which ended in the mid-1990s. After the conflict, thousands of IDPs returned home, encouraged by a government program that promised assistance and development in their areas of origin. Many other displaced persons settled elsewhere, such as on the perimeter of the cities to which they had fled. Although most IDPs have reintegrated into their surroundings, many still continue to require assistance, particularly with finding sustainable income generating activities. In light of the recently released Truth and Reconciliation Commission report, issues of visibility, national recognition of their displacement, justice and reparations are particularly relevant to Peru's IDPs. In addition, in recent years, there have been reports of new small-scale displacements occurring in isolated areas of the country. The latest figure available for the current number of IDPs in Peru is 60,000.

In Guatemala, the 1996 peace agreement between the government and the Guatemalan National Revolutionary Unity (URNG) ended the decades-long conflict, begun in the 1960s, which had uprooted more than a million persons. At times, displacement was not only a consequence of violence but an objective of counterinsurgency strategies. During the 1980s, entire communities became internally displaced, and the profile of those displaced was poor indigenous populations. In 1997, one year after the peace, IDP leaders signed an agreement with the government entitled the "Accord on the Resettlement of Populations Uprooted by the Armed Conflict," which addressed important IDP needs, such as land and basic infrastructure in areas of relocation. Although many of Guatemala's IDPs returned to their areas of origin, others settled permanently in their areas of refuge. While some observers consider there no longer to be any IDPs in the country, according to the Norwegian Refugee Council Global IDP Database, there remain an estimated 250,000 persons who continue to need assistance to enable them to have their rights fully restored and resume their lives as productive citizens. The number of IDPs who have yet to find durable solutions to their plight remains a controversial issue that requires further exploration.

Tied to the question of numbers of IDPs in Colombia, Guatemala and Peru is the complex question of when displacement can be said to have ended. Participants in the seminar will discuss this and other pertinent questions with a view to finding effective national, regional and international responses. Given that governments and their national and international partners are engaged in policies and programs to improve the response to the displaced in the region, it is useful to briefly review the existing normative framework that has been developed to help guide governments and other actors in addressing IDP concerns.

The Guiding Principles on Internal Displacement

The Guiding Principles on Internal Displacement are the first international standards developed for IDPs. These 30 Principles, which are based on international humanitarian law, human rights law and refugee law by analogy, set forth the rights of the internally displaced and the obligations of governments and non-state actors toward these populations. They cover all three phases of displacement: protection from arbitrary displacement; protection and assistance during displacement; and during return or resettlement and reintegration.

The first section of the Principles contains general principles that relate to the equal treatment of IDPs and assert that the displaced cannot be discriminated against because of their displacement. At the same time, they acknowledge that certain vulnerable groups such as women, children and elderly persons may require special attention. The second section includes Principles relating to protection from displacement and articulates a right not to be arbitrarily displaced. It is worth noting that states are under a particular obligation to avoid displacement and to provide protection against the displacement of groups with a special dependency on and attachment to their lands. The Principles also provide minimum guarantees to be complied with when displacement occurs. The third section sets forth the full range of civil, political, economic, social and cultural rights that all persons, including IDPs, should enjoy. The fourth section on provision of humanitarian assistance goes beyond simply pointing out the primary role of the national authorities in providing humanitarian assistance. It adds that when those governmental authorities responsible are unable or unwilling to provide assistance, international organizations have the right to offer their services, and, consent to do so shall not be arbitrarily withheld. The last section of the Principles emphasizes the importance of voluntary return in safety and dignity, resettlement or local integration, as well as the need to assist IDPs to recover their property and possessions or, when this is not possible, to receive compensation or just reparation.

Throughout the Principles, special attention is paid to the protection and assistance needs of vulnerable groups such as women, children, the elderly and disabled. For example, the Principles call for the participation of women in the planning and distribution of relief supplies, prohibit sexual violence and the recruitment of minors into hostilities, and stress the need for family reunification. Of particular significance to situations of displacement in the Americas, the Principles also refer to the right of women to obtain personal identity and other documents on an equal basis as men.

Since their presentation to the United Nations in 1998 by the Representative of the Secretary-General on Internally Displaced Persons, the Principles have gained worldwide international standing and authority. Intergovernmental bodies, such as the UN Commission on Human Rights and the General Assembly have acknowledged and encouraged the use and dissemination of the Principles in their resolutions. The UN Secretary-General has called upon the Security Council to encourage states to observe the Principles in situations of mass displacement. All of the main international humanitarian, human rights and development organizations and umbrella organizations have endorsed the Principles and taken the decision to disseminate and apply them in the field. Many regional intergovernmental organizations around the world, such as the Organization of African Unity (OAU, now the African Union) and the Organization for Security and Cooperation in Europe (OSCE), have been disseminating and applying the Principles. In the Americas, the Inter-American Commission on Human Rights of the Organization of American States (OAS) has formally endorsed the Principles as an

authoritative guide to applicable law and uses them as a checklist for evaluating conditions of internally displaced persons in the different countries it visits.

The Principles were first introduced in the Americas by the Inter-American Commission during its 1998 mission to Colombia. When the Representative of the Secretary-General paid his second visit to Colombia in 1999, the Principles served as the basis for his dialogue with government officials and other actors and served as the framework for dialogue on his mission to Mexico in 2002. The Representative found that government officials in these two countries accepted the Principles as a framework for dealing with the concerns of the displaced. Indeed, the Colombian government has taken a number of steps based on the Principles to further develop national legal and institutional frameworks for addressing the problem of internal displacement. One such effort was Presidential Directive No. 6 (2001), which supported the 2001 Colombian Constitutional Court's decision that upheld the Guiding Principles and stressed the need for government officials to receive training in them. A prior Constitutional Court decision SU-1150 (August 2000) affirmed that the Principles should be utilized in the interpretation of existing IDP legislation and as the standard for any new legislation on displacement.

In addition, during the Representative's 1999 mission to Colombia, a seminar was organized with government officials, international organizations, NGOs and displaced persons groups to analyze the situation of internal displacement in Colombia and to develop strategies based on the Principles. Co-hosted by the Grupo de Apoyo a Organizaciones de Desplazados (GAD), the US Committee for Refugees, and the Brookings Project on Internal Displacement, the seminar's concluding statement stressed the importance of putting the Guiding Principles into practice, and thereafter, increasing numbers of government officials, and international and national NGOs and church groups began to utilize the Principles in their work. Although the main focus of the seminar was on Colombia, Peruvian NGOs also participated. And it is noteworthy that members of the Peruvian legislature recently drafted legislation on internal displacement, which draws on the Guiding Principles.

In the Americas, NGOs in particular have been extremely active in promoting the rights of the displaced and have been widely disseminating and applying the Principles, as well as the companion *Handbook for Applying the Guiding Principles*. In Peru, for example, NGOs have disseminated and applied the Principles as benchmarks against which to monitor and evaluate national policies and law and to promote and strengthen dialogue with the government on the rights of the displaced. Peruvian NGOs and IDP groups are currently promoting the above-mentioned draft law on internal displacement. Displaced persons organizations have also begun to use the Principles as an empowerment tool.

Regional and International Responses

Faced with the challenge of seeking solutions for the displaced, the Americas region has responded by developing some innovative institutional arrangements for the displaced. One early initiative was the International Conference on Central American Refugees (CIREFCA), convened in 1989 by the UN High Commissioner for Refugees (UNHCR) and the Central American governments. It put into place mechanisms at the international, regional and national levels for the design and implementation of reintegration programs for returning refugees and internally displaced persons. In the Conference Plan of Action, Central American governments and international donors committed themselves to far-reaching humanitarian and development programs for uprooted peoples, and many of these programs were effectively carried out. In addition, the UN Development Program for Displaced Persons (PRODERE) brought together relief and development agencies to facilitate over a five-year period the reintegration of more than two million refugees and IDPs. Carried out between 1989 and 1995, PRODERE supported the restoration of infrastructure and community-based development projects and assisted displaced persons in securing legal documents and legal aid. While studies have found that IDPs could have received more attention under both programs, CIREFCA and PRODERE are generally regarded as being among the most successful regional approaches to the reintegration of uprooted populations.

Another institutional innovation in the Americas concerns the Organization of American States (OAS). It was the first regional organization to create a position exclusively devoted to the problem of internal displacement. In 1996, its Inter-American Commission on Human Rights appointed Professor Robert K. Goldman, as its special rapporteur for IDPs. The special rapporteur has been actively monitoring situations of internal displacement in the Americas and using the Guiding Principles as the framework for doing so. For example, the Commission's 1999 report on the human rights situation in Colombia contains an extensive chapter on internal displacement, with recommendations addressed to both the government and insurgent groups. The Commission's April 2001 report on Guatemala also analyzes the human rights situation of those uprooted by armed conflict and makes recommendations to the Guatemalan government designed to aid the reintegration of the displaced. In particular, it recommends that the government intensify efforts to ensure that the displaced obtain identity documents and that it adopt concrete measures and procedures to implement the 'Agreement on Resettlement,' which provides that uprooted populations should be allowed to participate in the design and implementation of policies and projects that affect them.

Even before the appointment of the rapporteur, the Inter-American Commission had begun to report on the situation of IDPs in Haiti and Guatemala, and in the case of Nicaragua it took a seminal decision. As early as 1984, it ruled that compensation should be awarded to the Miskito Indians for the damage done to their property during displacement. This decision helped guide future approaches to returns of IDPs and influenced the development of the Guiding Principles on this point. Some have proposed that the Commission take additional steps, for example, that it engage in preventive measures, as indeed the Commission has initiated in response to threats faced by IDP communities in Colombia.

At the international level, United Nations agencies and international humanitarian organizations have played an important role in directly providing protection and assistance to internally displaced persons. This has particularly been the case in Colombia. UN agencies and offices such as UNHCR, the Office of the UN High Commissioner for Human Rights, UNICEF, the World Food Program (WFP) and the Office for the Coordination of Humanitarian Affairs

(OCHA) as well as the International Committee of the Red Cross (ICRC) and an array of international NGOs have undertaken a number of critical steps in support of IDPs, such as promoting adherence by armed actors to international human rights and humanitarian law, monitoring the conditions of IDPs, establishing field presence, accompanying individuals and communities at risk, and providing basic assistance. Donor countries also have played an active role in drawing attention to the crisis in Colombia, for instance in undertaking missions to particular IDP communities and in advocating with the government for more effective responses to their plight. International actors, however, face a number of challenges to assisting and protecting the internally displaced, in particular as regards security and access. Moreover, the magnitude of the displacement crisis in a country like Colombia also presents significant challenges in terms of sufficient resources to cover identified needs. In the case of Mexico, the Representative of the Secretary-General has called for greater international attention to the problem of internal displacement.

Addressing the Current Challenges

Although the national, regional and international responses to internal displacement in the Americas have often been innovative and sometimes expansive, and the Guiding Principles have been widely disseminated and utilized, there continues to exist a gap between the policies and programs developed and the reality faced by IDPs on the ground. Moreover, since 1999, many new challenges have arisen, among these the deliberate targeting of persons working for the displaced, especially the leaders of displaced communities, necessitating new strategies.

This seminar will examine the different problems confronting the displaced and search for practical solutions to their protection and assistance concerns, with particular attention paid to indigenous groups and those of African descent. The particular concerns of IDP women and the most effective strategies for integrating these into policies and programs will be discussed, as will the further steps that can be taken to improve the situation of children and older IDPs.

Participants will also discuss and develop recommendations on how durable solutions for IDPs, either safe and voluntary return or alternatives to return, can best be achieved in the region. The current response by local, national, regional and international actors will be explored, with particular attention paid to national responsibility and the development by governments of policies and laws to address displacement. A specific session will be devoted to discussing the role that national human rights institutions can play to integrate displacement into their work. Ways of strengthening the collaboration among NGOs, IDP organizations and national authorities will be examined as well as cooperation with the international community. Strategies will also be identified for ensuring that those who work on behalf of the displaced, such as IDP leaders, academics and government officials, are protected from harm.

Conclusion

Internal displacement remains a pressing issue in the Americas. A great deal remains to be done at the national level to ensure protection and assistance as well as to find durable solutions for the millions uprooted and to prevent further displacement from taking place. To reinforce the existing efforts already underway at the national and local level, the further

development of regional approaches should prove valuable. At the same time, the root causes of the problem must be addressed. Internal displacement after all is a reflection of much larger political, economic and social problems within societies. It is therefore first and foremost a problem for national and local authorities to work out with their displaced communities, but it is also a problem that the international community as well as regional bodies can help address. The normative framework found in the Guiding Principles on Internal Displacement should provide participants with a framework for dialogue on these issues and thereby lend support to achieving more effective strategies for persons internally displaced in the Americas.