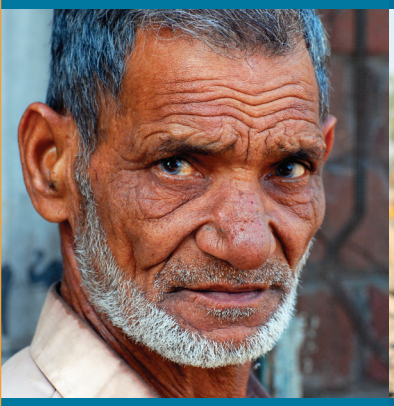


IMPROVING THE **US RESPONSE TO INTERNAL DISPLACEMENT:** RECOMMENDATIONS TO THE **OBAMA ADMINISTRATION** AND THE **CONGRESS**

Brookings-Bern Project on Internal Displacement

June 2010

BROOKINGS

UNIVERSITÄT BERN

IMPROVING THE US RESPONSE TO INTERNAL DISPLACEMENT: RECOMMENDATIONS TO THE OBAMA ADMINISTRATION AND THE CONGRESS

by Roberta Cohen and Dawn Calabia

Brookings-Bern Project on Internal Displacement

June 2010

ABOUT THE AUTHORS

Roberta Cohen co-founded the Brookings Project on Internal Displacement and served as its co-director for more than a decade. She co-authored together with Francis M. Deng the first major study on internal displacement, *Masses in Flight: The Global Crisis of Internal Displacement* (Brookings, 1998), and was co-recipient with Deng of the Grawemeyer Award for Ideas Improving world Order (2005). She is currently Senior Adviser to the Project, a non-resident Senior Fellow in Foreign Policy Studies at the Brookings Institution specializing in human rights and humanitarian issues, a Senior Associate at Georgetown University's Institute for the Study of International Migration, and Senior Adviser to the Representative of the UN Secretary-General for the Human Rights of Internally Displaced Persons, Walter Kälin. She is the author of numerous articles on human rights and humanitarian issues and was awarded the DACOR (Diplomatic and Consular Officers, Retired—State Department) Fiftieth Anniversary Award (2002) for Exemplary Writing on Foreign Affairs and Diplomacy, in particular on "refugees and internally displaced persons." She is a former Deputy Assistant Secretary of State for Human Rights in the Department of State and a member of US Delegations to the UN General Assembly, Commission on Human Rights and Organization for Security and Cooperation in Europe.

Dawn Tennant Calabia, has worked on displacement and foreign policy issues for over 30 years and is currently Senior Adviser at Refugees International, a Washington based advocacy organization focused on prevention and resolution of forced displacement. Ms. Calabia worked for eleven years with the United Nations in Washington, first as external relations officer for UNHCR's office for the US and the Caribbean(1993-2001) and then as Deputy Director and Acting Director of the UN Information Center, an office of the UN Secretariat (2001-2004). She earlier served as Director of Policy and Development for the US Catholic Conference of Bishops Migration and Refugee Services, one of the largest refugee resettlement organizations, and has conducted numerous fact finding missions on refugee situations. From 1978 to 1989 she served on Capitol Hill as a staff member of the House Foreign Affairs Committee focusing on refugee, development and human rights issues and as senior legislative director for then Representative Stephen Solarz of New York. She is a member of the Council on Foreign Relations, treasurer and board member of the Women's Foreign Policy Group, and Vice President for Advocacy of the United Nations Association of the National Capital Area. She was honored by President Clinton for her work with refugee women and children in 1993. She holds an M.S.S. from Fordham University and a B.A. from St. John's University of New York.

CONTENTS

ACRONYMS

ASEAN	Association of Southeast Asian Nations
AU	African Union
BHA	Bureau for Humanitarian Assistance, OFDA, USAID
CERF	Central Emergency Response Fund, UN
CERP	Commander's Emergency Response Program, DOD
CMM	Conflict Management and Mitigation Office, USAID
CCF	Complex Crisis Fund, USAID
CRS	Congressional Research Service
DART	Disaster Assistance Response Teams, USAID
DCHA	Bureau for Democracy, Conflict and Humanitarian Assistance, USAID
DHS	Department of Homeland Security, US
DOD	Department of Defense, US
DPKO	Department of Peacekeeping Operations, UN
DRC	Democratic Republic of Congo
DRL	Bureau of Democracy, Human Rights and Labor, State Department
ERMA	Emergency Refugee and Migration Account, US
EU	European Union
EXCOM	Executive Committee of UNHCR
FAA	Foreign Assistance Act of 1961
FAO	Food and Agriculture Organization, UN
FFP	Food for Peace program, USAID
GAO	Government Accounting Office, US
HFAC	House Foreign Affairs Committee, US Congress
IASC	Inter-Agency Standing Committee, UN
ICRC	International Committee of the Red Cross
IDA	International Disaster Assistance (USAID account)
IDMC	Internal Displacement Monitoring Centre, Geneva
IFRC	International Federation of Red Cross and Red Crescent Societies
IHL	International humanitarian law
IO	Bureau of International Organization Affairs, State Department
IOM	International Organization for Migration

MONUC	UN Organization Mission in Democratic Republic of Congo
MRA	Migration and Refugee Assistance Act of 1962, as amended
NGO	Non-governmental organization
NSC	National Security Council, US
OAS	Organization of American States
OFDA	Office of U.S. Foreign Disaster Assistance, USAID
OSCE	Organization for Security and Cooperation in Europe
OTI	Office of Transition Initiatives, USAID
PAHO	Pan American Health Organization
PPC	Bureau for Policy and Program Coordination, USAID
PRM	Bureau of Population, Refugees and Migration, State Department
QDDR	Quadrennial Diplomacy and Development Review, USG
RC	Resident Coordinator, UN
RC/HC	Resident Coordinator/Humanitarian Coordinator, UN
RI	Refugees International
RSG	Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons
S/CRS	Office of the Coordinator for Reconstruction and Stabilization, State Department
SFRC	Senate Foreign Relations Committee
SPLA/M	Sudan People's Liberation Army/Movement, Southern Sudan
UNDP	UN Development Program
UNFPA	UN Population Fund
UNHCR	UN High Commissioner for Refugees
UNIFEM	UN Development Fund for Women
UNOCHA	UN Office for the Coordination of Humanitarian Affairs
UNOHCHR	UN Office of the High Commissioner for Human Rights
USAID	US Agency for International Development
USIP	US Institute of Peace
WFP	World Food Program

EXECUTIVE SUMMARY

As the single largest donor of humanitarian aid, the US response is critical to determining how effectively internally displaced persons (IDPs), refugees and other affected populations are dealt with in humanitarian crises. Although the United States over the past decade has taken important steps to integrate the needs of IDPs into its policies and programs, there remain many significant ways to improve its response to situations of mass displacement.

There are today a total of more than 60 million persons internally displaced within their own countries—an estimated 26 million forcibly uprooted by conflict and human rights violations and some 36 million uprooted by sudden-onset natural disasters. They need increased US attention because they are a particularly vulnerable group for whom international norms, policies, budgets and institutional structures are not as strong as for the 10.5 million refugees of concern to UNHCR who have a special protection regime and one which has been supported by the US since 1950.

Hundreds of thousands of uprooted people caught up in their countries without the basic necessities of life constitute not only a humanitarian and human rights problem but a political and security concern. Not only can national stability be disrupted, but conflict and displacement can spill over borders and undermine regional security. In countries where US military operations, or military operations supported by the US, have directly or indirectly displaced large numbers of people, the US government has a special responsibility. A failure to protect and reintegrate displaced people in Iraq or Pakistan, for example, will pose serious obstacles to stability and development in those countries for decades to come.

Among the steps taken by the US over the past decade to better integrate internal displacement in its policies and programs are: 1) the adoption of a USAID policy on IDPs in 2004; 2) the designation of USAID/OFDA as the lead government coordinator on internal displacement; 3) the greater involvement of the State Department's Bureau of Population, Refugees and Migration (PRM) with IDPs. It now is the primary funder and implementer of IDP emergency programs in a number of countries and principal interlocutor with major international organizations (e.g. UNHCR, ICRC, IOM) that protect and assist IDPs; 4) increased allocations of funds for IDPs; 4) training of staff in IDP protection; 5) inclusion of information about IDPs in the State Department's human rights reports; and 6) efforts at regional and international organizations to promote more effective international institutional arrangements for IDPs. The Congress has played an important role in drawing attention to the plight of IDPs through increased hearings, legislation and financial support.

Nonetheless, serious shortcomings and challenges exist and must be addressed if US humanitarian, security and development goals are to be met. The report identifies the following:

1) **Inadequate reference to IDPs in US law**. There is no explicit reference to IDPs in the Migration and Refugee Assistance Act (MRA) of 1962 or adequate reference to IDPs or their protection in the Foreign Assistance Act (FAA) of 1961. Lack of specific mention weakens the foundation of US support for IDPs.

2) **The absence of an overall US government policy on humanitarian aid**. Government staff, NGOs and experts regularly note the absence of an overall humanitarian policy to guide US work in the humanitarian area. As a result, questions regularly arise about the objectives of that aid, the precise meaning of vulnerability, who the beneficiaries should be and the extent to which IDPs should be protected and assisted.

3) **Failure to disseminate, implement and monitor the USAID IDP Policy**. USAID staff outside OFDA and the Bureau for Democracy, Conflict and Humanitarian Assistance (DCHA), which houses OFDA, are generally not familiar with the USAID IDP Policy. State Department, National Security Council and Congressional staff are even less aware of the policy's provisions. The policy is reported not to be regularly applied in all countries with internal displacement. No evaluations have been conducted of how the policy has been disseminated and implemented.

4) **Lack of adequate IDP specialist staff in the State Department and USAID**. Although PRM staff claim to have a "holistic" approach toward refugees and IDPs, the history and mandate of the bureau reflect a longstanding predisposition toward refugees. The one part-time position specific to IDPs cannot make up for decades of an exclusive refugee focus. At USAID, the single staff person in OFDA devoted to IDPs cannot possibly ensure that the office is proactive on protection in each emergency and persuade the agency to effectively implement the IDP Policy.

5) **Continued lack of institutional clarity in dealing with IDPs**. The relationship between USAID/DCHA and State's PRM has been marred by turf battles and differences in approach as to how to address refugee and IDP needs. Disagreements have delayed protection and assistance for IDPs and produced less than coherent leadership on internal displacement. Currently, efforts are underway to improve working relationships, but questions arise about how to divide responsibilities between the two offices since a 2004 agreement, how best to monitor the UN's "cluster" approach, how to address protection in natural disasters, and who should be the principal "lead" and advocate when it comes to IDPs.

6) **Insufficient Congressional attention to US policy toward IDPs**. How best to equip the US to deal with internal displacement has not been addressed. The implementation of USAID's IDP Policy has not been reviewed nor the reasons for the US to develop an overall humanitarian policy. The Congress has supported enlarging the Defense Department's role in humanitarian assistance and development programs but has not sufficiently increased humanitarian and development aid for USAID or given its officials the same authority and flexibility in making program and funding decisions as US military commanders have in programs related to humanitarian aid and stabilization.

7) **Funding shortfalls**. The diplomacy and development legs of US foreign policy have lagged tremendously behind the military leg. Foreign assistance and State Department operations amount to only 1.4 percent of the US budget. Although IDP programs have received more funding than in the past, both government and NGO staff have expressed concerns about the disparities in levels of funding and types of assistance provided for refugees and IDPs.

8) **Lack of attention to early recovery and reintegration**. The gap between humanitarian emergency aid, early recovery and development aid remains wide with insufficient attention paid to IDP situations after the immediate emergency is over. OFDA resources are generally insufficient for protracted displacement and for the transition from relief to the recovery and reintegration needs of IDPs. USAID development programs have lacked the flexibility to engage earlier in emergency situations.

9) **Inadequate oversight of international institutional arrangements**. The lack of US support for UNHCR's enlarged involvement with IDPs—until recent years—undermined UNHCR's performance with IDPs. Now that US policy has become supportive of UNHCR's role with IDPs, it remains to be seen whether the US will ensure that UNHCR fulfills its promised obligations to IDPs. The early recovery cluster led by UNDP has not received strong support from the US. Nor has the US contributed substantially to multilateral funds like the CERF intended for sudden and neglected emergencies. Some experts claim the US has failed to "punch its weight" in the UN humanitarian policymaking process.

10) **Insufficient attention to IDP protection by UN peacekeepers**. Many have called upon the US to promote greater protection for IDPs by international peacekeepers in internal conflict situations. Too often protection has been neglected because of lack of troops and resources, unclear mandates, and other serious deficiencies—all areas on which the US has not sufficiently weighed in.

11) **Failure to acknowledge IDP problems at home**. The US has not treated those uprooted by natural disasters in the US as IDPs and has not applied to them the UN Guiding Principles on Internal Displacement. FEMA's latest draft National Disaster Recovery Framework makes no mention of the Guiding Principles and gives little attention to the protection of IDPs. Because the US is often considered a model worldwide, the way it addresses internal displacement at home can influence governments abroad.

12) **State Department human rights reports need improvement**. While some of the reports provide cogent analyses of forced displacement, others provide minimalist accounts with little analysis. Forced displacement is not viewed as a grave violation of human rights even though the Rome Statute of the International Criminal Court considers it in certain circumstances to be an international crime. No section of the report covers genocide, war crimes, crimes against humanity, and ethnic cleansing, to which IDPs are often subjected. Nor is lack of access to food, medical care and shelter treated as clear violations of human rights, in particular the right to life.

Both humanitarian and security concerns make it essential for the US to improve the US response to internal displacement and to modernize and revamp those of its long standing laws, policies, resource mechanisms, institutional arrangements and aid programs that no longer meet their intended goals. By taking steps to improve its response, the US will bring needed help to one of the most abused and vulnerable populations in the world, which in turn will reinvigorate American leadership in the humanitarian arena. The following recommendations are offered:

PART ONE: LEGISLATION

The Foreign Assistance Act

- Include IDPs and their host communities as a group of concern in the FAA so as to establish a firm base for US policy and programs with IDPs.
- Establish that policies and programs to prevent further displacement and resolve situations of displacement are priorities for US diplomacy and foreign assistance.
- Reference the need for protection in all phases of displacement and support the application of the Guiding Principles on Internal Displacement as a framework for response.
- Recognize that IDP situations, like refugee crises, require a response that extends beyond the emergency phase to include care and maintenance, early recovery, return or resettlement, and reintegration.
- Clarify that the International Disaster Assistance (IDA) fund is to cover not only the emergency phase but protracted emergency situations and early recovery activities (in coordination with development funds).

- Require USAID to report on its overall response to situations of internal displacement, its implementation of the USAID IDP Policy, and the mechanisms utilized to address displacement from its early stages until durable solutions can be found.

The Migration and Refugee Act

- Make specific reference to IDPs and their host communities in the MRA.
- Change the name of the MRA to reflect the US and international community's increasing involvement with IDPs.
- Encourage PRM in its funding of UNHCR and ICRC to make sure that these agencies proportionately and adequately focus on IDPs.
- Provide for greater monitoring, coordination and evaluation of PRM's funded programs for IDPs, refugees and others of concern.

Flexible funds

- Ensure adequate and flexible funding mechanisms to enable quick and equitable response to the needs of displaced populations.
- Enable PRM to draw down its emergency response funds (i.e. ERMA) more easily for IDP and refugee emergencies by authorizing the Secretary of State or PRM's Assistant Secretary to complete the drawdown rather than having to wait for a Presidential approval.
- Create a new flexible fund at USAID to enable it to support early recovery programs.
- Provide contingency funds and the ability to move funds around accounts more easily for both PRM and USAID.

PART TWO: POLICY MEASURES

Adopt an overall policy on humanitarian assistance to guide decisions on humanitarian aid.

The policy should promote principles of neutrality and impartiality in providing assistance; end unjustified disparities in aid among refugees, IDPs and other vulnerable groups; define vulnerability and apply it uniformly in the provision of aid; address the needs of special groups; provide aid to communities and families affected by or hosting IDPs or refugees; link humanitarian and development aid; set the parameters, conditions and oversight requirements for military involvement in humanitarian aid and requirements; promote cooperation with local and international NGOs; and ensure participation in international efforts at humanitarian reform, including multilateral funding mechanisms. The policy should express a clear commitment to the integration of IDP needs in US policy and programs and in multilateral humanitarian response.

Update and reissue USAID's IDP Policy

Implementation of USAID's IDP Policy—the first and so far only US government policy document to give priority to IDPs—should be strengthened. Because of changes that have occurred since its adoption, the policy should be updated to give greater emphasis to natural disasters and their protection problems; endorse UN humanitarian reform (which began in 2005); and take into account the greater role the State Department (PRM and IO) will play in situations of internal displacement given UNHCR's and the UN's expanded role with IDPs. The USAID Administrator should then disseminate the IDP Policy and its Implementation Guidelines to all offices and field missions explaining that addressing internal displacement reinforces USAID's humanitarian and development goals and is an essential component of US foreign policy.

Extend the USAID IDP Policy to cover all US government offices dealing with internal displacement

All offices in the US government involved with internal displacement should be instructed to follow the relevant precepts and principles of the USAID IDP Policy.

Evaluate implementation of USAID IDP Policy

The evaluation should address how effectively the policy has been integrated into USAID strategic and country plans, how USAID can best determine the number of IDPs assisted by its programs, the extent to which the programs encompass all phases of displacement, and identify ways to improve overall reporting and program response.

Include in USAID performance evaluations implementation of the IDP Policy

Annual performance evaluations of USAID mission directors should include how well they integrate internal displacement into their programs and promote solutions for IDPs.

Expand training in the IDP Policy and other IDP frameworks

All USAID staff dealing with IDPs should be expected to know the provisions of the IDP Policy and the Guiding Principles. PRM staff should receive *mandatory* training in the IDP Policy, the Guiding Principles and other essential frameworks for IDPs (e.g., the Framework on Durable Solutions for IDPs, the Framework for National Responsibility). The training should also extend to all other government offices whose work impacts on internal displacement (Department of State, Department of Defense etc.).

PART THREE: INSTITUTIONAL ARRANGEMENTS

Clarify roles and responsibilities for IDPs within the US government

Because IDP situations require a coordinated government wide approach, encompassing a broad range of interventions, and because creating a single humanitarian office within USAID or the State Department could prove disruptive and unnecessary, DCHA/OFDA and PRM, the two offices most directly and strongly engaged with IDPs, should develop *a genuinely shared responsibility* for dealing with situations of internal displacement. Neither USAID nor State has sufficient capacity or skills to deal with the entirety of the issue. Most importantly, care needs to be taken that their bureaucratic disagreements never be allowed to undermine protection and assistance to IDPs. A shared responsibility would include:

- Senior oversight by the USAID Deputy Administrator and the Deputy Secretary of State for Management.

- A new division of labor between DCHA and PRM to reflect the changes that have occurred since their 2004 agreement. A new MOU should spell out 1) how PRM and USAID should best coordinate in situations of forced displacement caused by conflict (whether PRM/State's role should include preventing and finding solutions to conflict and whether USAID 's role should include reconstruction and development solutions in conflict and disaster situations); 2) whether USAID's lead role in natural disasters should include protection of the human rights of IDPs or whether PRM should oversee that responsibility; 3) whether PRM and USAID should divide responsibilities according to the kind of emergency (conflicts or natural disasters); and 4) whether and how PRM and USAID should fill particular gaps (e.g., early recovery measures, disparities in refugee and IDP assistance, education for IDP children).

- In dividing responsibilities, there should be agreement on 1) a comprehensive approach toward IDPs, refugees and other vulnerable groups; 2) greater flexibility in operations —e.g. DCHA/OFDA should be able to fund projects filling gaps in multilateral programs, including UNHCR's, while PRM should have greater facility in providing grants to NGOs for work with IDPs; 3) more transparent reporting by USAID on IDP programs; 4) a sharpened ability by DCHA to engage multilaterally at the policy level by providing core funding to OCHA, UNDP, UNICEF and other international offices.

- Joint efforts should be made to mainstream the issue of internal displacement into all relevant parts of USAID and the State Department and also to promote the integration of IDP issues into other parts of the government whose work impacts on displacement (e.g. DOD).

Strengthen the capacity of offices involved with internal displacement

- ***At USAID***. An OFDA director should be designated immediately (the appointment does not require Senate confirmation and has been vacant since January 2009) and all other senior positions should be filled as soon as possible. Every relevant office in USAID should have an IDP focal point to ensure that the IDP Policy is fully implemented and integrated into agency programs. OFDA's budget should be doubled (currently $845 million) so it can deal with protracted crises and early recovery as well as new emergencies. Its 250 staff should be increased to enable OFDA to pay greater attention to protection in the field, to better monitor and evaluate its programs, and to provide humanitarian aid for IDPs and others beyond the emergency phase until they can access development programs. USAID's regional bureaus and country missions (which have $5 billion in development funds in FY 2010) should be expected to devote funds and staff to better integrate IDPs in their mid-and long-term development goals and engage at the earliest stage to support the recovery and reintegration of displaced populations. To this end, USAID country directors should be expected to enhance their diplomatic skills and engage in advocacy with governments for the reintegration of displaced populations. The USAID Administrator should have a regular seat at the foreign policy table.

- ***At PRM***. The bureau should be renamed the Bureau for Population, Displacement and Migration or even better, the Bureau for Humanitarian Affairs, serving as principal humanitarian adviser to the Secretary of State and responsible for supporting programs with multilateral organizations and NGOs. It should cooperate closely with a revitalized USAID in developing US humanitarian policy, upholding humanitarian principles, and together with USAID leading and coordinating US efforts to resolve displacement and contribute to conflict prevention, conflict management and post conflict reconstruction and stabilization. It should support programs for all persons affected by humanitarian emergencies—refugees, IDPs, stateless persons and other affected populations—whether in camps urban settings or with host families. It should engage in humanitarian diplomacy with foreign governments, ensure US attention to the humanitarian consequences of foreign policy decisions, mobilize donor governments in humanitarian efforts to prevent and resolve displacement, monitor multilateral and NGO humanitarian action and work to ensure that the organizations funded by the US promote equitable treatment of displaced people and durable solutions for them.

  PRM's emergency ERMA funds should be doubled and its regular MRA funds for international organizations and NGOs increased. It should be able to fund closer to 30 percent of UNHCR's budget and a substantial percentage of UNHCR's IDP pillar. More of PRM's NGO projects should focus on IDPs. The Assistant Secretary should continue to have a discretionary fund of at least $30 million to respond to emerging situations requiring special attention.

PRM's staff (now 139) should be increased by 20 or more percent and the 28 "refugee coordinators" in the field increased to at least 50 (Africa should have at least 5). They should be expected to equitably cover both refugee and IDP situations and be tasked with evaluating particularly vulnerable IDP cases for resettlement. At least one senior and several mid-level officials with specific IDP experience and expertise should be added to follow worldwide IDP crises on a full-time basis, promote political programs to address these situations and monitor and evaluate the IDP work of UN agencies and NGOs. Without this kind of affirmative action, IDPs risk becoming an after-thought in a refugee bureau.

- ***At other State Department offices***

  ***DRL*:** A human rights officer in the Bureau of Democracy, Human Rights and Labor should be expected to focus on the protection and human rights dimension of displacement, work with PRM and USAID to develop strategies for enhancing the human rights of IDPs and other affected populations in emergencies, and help improve the reporting on internal displacement in the human rights reports.

  ***IO*:** The US Ambassador to the UN Economic and Social Council should encourage OCHA and UNDP to strengthen the early recovery cluster, given the cluster's relationship to the economic development and stabilization of war-torn societies; give priority to promoting solutions for displaced populations; follow the UN's appointment and evaluation of Resident/Humanitarian Coordinators; call for reconstruction programs to use the economic capacities of displaced populations; and support the efforts of the UN Peacebuilding Commission to integrate programs for displaced persons in its work.

  ***US Embassies*:** A directive to US Embassies should call attention to the conditions causing mass displacement and assure Embassy involvement in promoting preventive steps against conflict and displacement. Chiefs of Mission should appoint focal points on serious displacement situations (as has been done in Iraq where there is a Senior Coordinator for Iraqi Refugees and Displaced Persons) to gather information for diplomatic intercessions, promote multilateral initiatives and monitor how UN agencies and NGOs are performing.

- ***At the NSC*:** It should regularly bring together representatives from USAID, State, DOD and other relevant government offices to ensure collaboration, avoid duplication and unnecessary competition and identify the most effective way forward in humanitarian crises. To improve coordination, consideration should be given to reviving the Contingency Planning Policy Coordination Committee which could identify US capacities and assets for displacement crises, bring the key players together, and ensure that policies and programs for IDPS are integrated into the programs of all relevant government offices from the emergency phase through reintegration and development.

PART FOUR: ADVOCACY

Intensify bilateral diplomacy on behalf of IDPs. US officials from the Secretary of State down should regularly use bilateral relationships with governments to increase protection for and promote solutions for IDPs, as they have done in the case of Pakistan, Iraq and Sri Lanka. The diplomacy should in particular encourage governments to adopt policies and laws on internal displacement and assume their national responsibilities for their displaced populations. It should encourage resolution of protracted situations of displacement which have gone on for more than ten years. USAID should also engage in advocacy and negotiations with governments, and with non-state actors, to promote protection and solutions for the displaced.

Mobilize international support for the Guiding Principles on Internal Displacement. The US should support the wide dissemination of the Guiding Principles by international agencies and NGOs, their translation into local languages and the convening of workshops to promote understanding of their provisions and how to apply them. US officials at the UN should ensure that reference to the Guiding Principles is included regularly in UN resolutions and reports pertaining to displaced populations. Further, the US should apply the Guiding Principles at home and emphasize the importance of adhering to the international law upon which the Principles are based. Doing so would influence other countries to apply them, and also enhance the US response to disasters and help the government avoid international criticism of its practices as well as costly lawsuits at home.

Deepen analysis of IDP situations in State Department human rights reports.

- Provide a more sophisticated analysis of internal displacement in the section of the reports on "Internally Displaced Persons."

- Make clear that the deliberate uprooting of people from their lands and homes is a serious human rights violation and in certain circumstances a war crime and crime against humanity.

- Create a separate section in the reports on genocide, war crimes, crimes against humanity and ethnic cleansing.

- Identify new and creative ways of dealing with economic and social rights in line with President Obama's support of a US policy focus on "freedom from want." For example, the deliberate withholding of food and medicine should be treated as a violation of the right to life.

- Include a section on governmental attitudes toward international and non-governmental humanitarian assistance which indicates whether governments are trying to obstruct life-supporting aid to their displaced and other affected populations.

  The Assistant Secretary should acknowledge the particular vulnerabilities of IDPs when speaking of internal conflicts to draw attention to their plight.

PART FIVE: OVERSIGHT AND FUNDING BY CONGRESS

Hearings

Congressional hearings should be held on the US response to internal displacement, in particular how the US is dealing with IDPs worldwide in both conflicts and natural disasters and recommend how to improve the response—especially in countries where US policies have directly or indirectly caused mass displacement. In addition, Congress should hold a special hearing on displacement in Africa, which houses most of the world's IDPs (12-13 million).

Funding

Defense Secretary Robert Gates and members of Congress have been urging increased resources for diplomacy and humanitarian and development aid. USAID and State programs to provide life saving assistance and protection need to be significantly increased. OFDA should be awarded $1.7 billion (from $845 million), and PRM's emergency fund ERMA should be provided with $200 million (from $100 million). USAID's International Disaster Assistance (IDA) fund and Complex Crisis Fund (CCF) should be increased to enable USAID to cover protracted situations and early recovery initiatives or a new special fund should be created for this purpose. PRM's regular MRA funds should be increased to ensure that US support for UNHCR's budget is close to 30 percent of the total. The US should work out its differences with the UN's CERF and other pooled funds and should increase its contribution so as to signal a more multilateral approach to humanitarian aid.

PART SIX: PROMOTING MORE EFFECTIVE REGIONAL AND INTERNATIONAL ACTION ON IDPS

Support greater regional action on IDPs

The US should promote the more active role of regional organizations in the Americas, Europe, Asia and Africa in addressing mass displacement. In Africa, for example, the US should provide support for civil society programs that promote ratification and implemen-

tation of the 2009 African Union Convention on IDPs and press for national laws and policies to carry out the Convention's provisions.

Press for more effective international institutional arrangements

- Participate actively in the UN humanitarian reform process;

- Send a clear message of support to UNHCR and donor governments that the US supports the refugee agency's expanded role in protecting and finding solutions for IDPs.

- Encourage UNHCR to strengthen its protection role with IDPs and undertake proactive advocacy with governments and non-state actors on behalf of IDPs; create a corps of UNHCR protection officers than can be deployed quickly to IDP situations; provide host families and communities affected by displacement with assistance; increase engagement with urban IDPs; reinvigorate the search for durable solutions for protracted IDP situations; and develop the capacity to carry out protection responsibilities in natural disasters.

- Help raise the 22 percent of its budget UNHCR has promised to devote to IDPs.

- Take the lead in promoting policy development in the area of early recovery, support the early recovery cluster led by UNDP, and mobilize other donor governments, international financial institutions and the private sector to support early recovery initiatives, e.g. reestablishing local governance structures, basic services, and job creation and livelihood programs. Such initiatives can build local capacity, reduce dependency and jumpstart reconstruction, in short assist communities to be on the road to security and development.

- Closely monitor the performance of the UN's cluster approach to ensure that it is achieving results for IDPs, be ready to speak out when it is not and take steps with the UN to remedy deficiencies, and increasingly join with other states to promote more coordinated international action for IDPs.

- Support the work of the Representative of the UN Secretary-General on the Human Rights of IDPs, in particular: 1) ensure that the successor to the current RSG is an experienced and strong advocate for IDPs, enjoys the same access to the UN's senior political and humanitarian offices and has an independent institution ready to support his/her work; 2) provide political and financial support for the work of the RSG and mobilize other donors to do likewise; 3) evaluate whether a full-time paid person (the position is currently voluntary) with sufficient staff and resources would better be able to serve as a catalyst for international response to internal displacement.

- Support greater civilian protection by UN peacekeepers, by 1) insisting upon clear Security Council mandates with priority given to civilian protection; 2) pressing "integrated missions," where humanitarian and development efforts are part of the peacekeeping operation, to work to protect humanitarian space and give a high degree of autonomy to humanitarian operations; 3) ensuring better training for UN peacekeepers in protection; and 4) offering to peacekeeping operations experienced US personnel and specialized equipment.

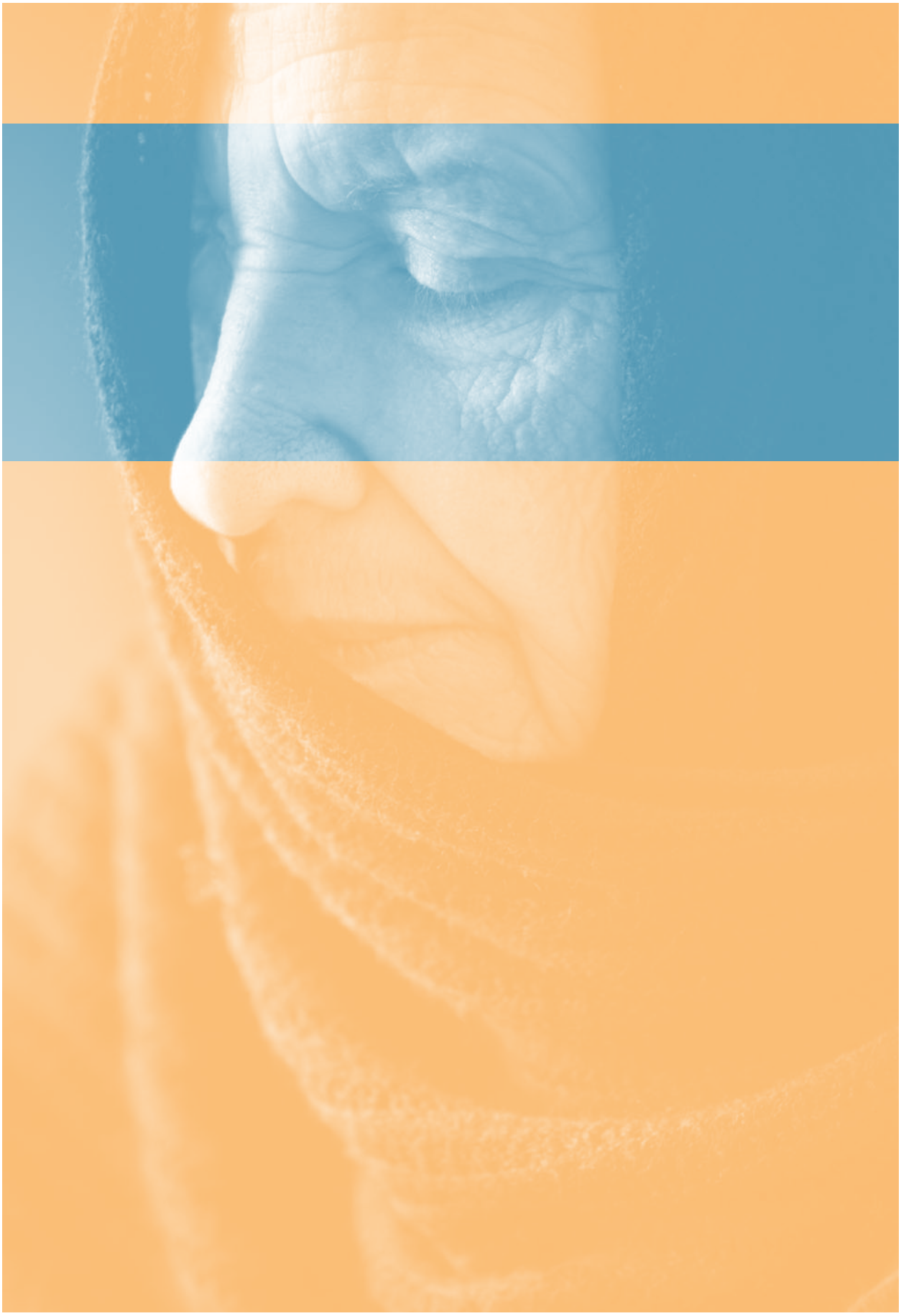
- Promote strategies to reach IDPs trapped in areas held by non-state actors, including through support for organizations that can gain access to the IDPs.

- Promote the application of the responsibility to protect (R2P) doctrine to IDPs. When the UN applies the concept, the US should make sure that the protection strategy is designed to help IDPs beyond the emergency phase to encompass safety and sustainability in areas of return or resettlement.

- Support consultations with and the inclusion of IDPs in peace processes so that their needs are incorporated into peace agreements.

- Develop a more *multilateral* humanitarian response by involving non-traditional donors and southern NGOs. Discussions with China and other potential donors, for example, should encompass their adherence to Good Humanitarian Donorship principles subscribed to by 36 governments.

The Obama Administration has the opportunity to make a difference in the lives of countless millions of uprooted people and contribute as well to promoting greater security and development in countries beset by conflict and disaster. Taking the steps outlined above should serve this country and many others in circumscribing the conflicts and disasters that will inevitably afflict the 21st century.



INTRODUCTION

The United States response to humanitarian emergencies is critical in determining how effectively refugees, internally displaced persons (IDPs), and other affected populations are dealt with by the international community. This report focuses on one crucial aspect of US response to humanitarian emergencies: its policies toward the tens of millions persons forcibly uprooted inside their own countries, known as the internally displaced. It explores the background to US engagement with internal displacement, assesses the achievements and shortcomings of US policies, and suggests recommendations for improving the response.

Before discussing United States policy—and how it can "catch up" when it comes to IDP protection, assistance and reintegration support—it is important to understand the nature of internal displacement, its relationship to refugee protection and the way the international community has perceived and addressed the needs of IDPs.

IDPS AS A PARTICULARLY VULNERABLE GROUP

Humanitarian emergencies disrupt the lives of massive numbers of people. Those who become uprooted are among the most vulnerable. Some become refugees, fleeing across international borders in search of asylum from persecution and violence, while others become internally displaced, seeking refuge inside their own countries.[1] Forced from their homes by conflict and human rights violations, and in the case of IDPs by natural disasters as well, both refugees and IDPs generally suffer severe deprivation and abuse requiring international protection and assistance and later reintegration and development support. One only has to look at the IDP camps in Darfur, Sudan and the refugee camps across the border in Chad to see the life threatening conditions both groups endure.

Although the international community has long recognized the need for international protection and assistance for refugees, a concerted awareness of IDPs as a group dates back only two decades. Yet "IDPs are among the world's most vulnerable population groups,"

[1] According to the UN Guiding Principles on Internal Displacement, the internally displaced are described 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 generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border." See Guiding Principles on Internal Displacement, UN Doc. E/CN.4/2998/53/Add.2, 11 February 1998.

the US Agency for International Development (USAID) points out in its IDP Policy.[2] They regularly lose their homes, communities, livelihoods and property, may live in camps, makeshift settlements or with relatives, face obstacles in securing documents, and need special protection from being forcibly returned to danger zones. Often they have higher malnutrition and mortality rates and greater exposure to sexual violence than others in the population, and encounter restrictions on their movement, lack of access to education and jobs, and obstacles to regaining land, housing, property rights and civil and political rights.[3] As Walter Kälin, the UN Secretary-General's Representative on the Human Rights of Internally Displaced Persons has observed, "Forced displacement is not a passing event in peoples' lives. It is a devastating transformation."[4]

Reaching IDPs and addressing their needs requires special strategies. Because they reside within their own countries, they are under the jurisdiction of their governments, which often do not have the capacity or willingness to protect and assist them. In civil war situations, international access to IDPs may be obstructed or barred and reaching them may pose risks for humanitarian staff. Moreover, because they have no formal status under international law as do refugees under the 1951 Refugee Convention and 1967 Protocol, international organizations sometimes find they have no clear protection mandate in their case.[5] Indeed, issues of sovereignty have stood in the way of creating an international agency at the UN dedicated to protection and advocacy for IDPs comparable to the role the UN High Commissioner for Refugees (UNHCR) has played with those who flee across borders.

Yet addressing the needs of IDPs is important to achieving US and international humanitarian, security and development goals. The number of IDPs in the world today should be reason enough to persuade the US government and international organizations to reorient and expand their programs and make them more holistic. In 2008, 26 million persons were estimated to be uprooted inside their own countries by conflict and human rights violations, and 36 million more by sudden-onset natural disasters, a total of more than 60 million. By contrast, the total number of refugees that same year was 10.5 million (leaving

---

[2] USAID Assistance to Internally Displaced Persons Policy, PD-ACA-558, October 2004, p. 3 [henceforth USAID IDP Policy].

[3] *Ibid*; See also Erin D. Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern," *Refugee Survey Quarterly*, UNHCR, Vol. 24, No. 3, 2005, pp. 14-21.

[4] Walter Kälin, "Strengthening the rights of internally displaced persons," Statement at Conference on Ten Years of the Guiding Principles on Internal Displacement, Achievements and Future Challenges, Oslo, 16 October 2008.

[5] See the 1951 Convention Relating to the Status of Refugees, supplemented by the 1967 Protocol Relating to the Status of Refugees. For some of the difficulties international organizations face in protecting IDPs, see, for example, UNHCR Policy Development and Evaluation Service, *Safeguarding humanitarian space and a review of key challenges for UNHCR*, PDES 2010/01, February 2010.

aside 4-5 million Palestinian refugees for whom a special protection and assistance regime was created).[6] Hundreds of thousands of uprooted people caught up in their countries without the basic necessities of life constitute a humanitarian and human rights emergency requiring urgent attention. And a political emergency as well, for they can disrupt national stability, especially in fragile states where the displaced have no access to livelihoods or education and can become vulnerable to criminal activity and recruitment into armed forces or terrorist groups. Furthermore, the failure to address the needs of IDPs can spill over borders into refugee flows and undermine regional and international stability. Those engaged in national and international peacemaking and peace building efforts regularly find that the participation and support of displaced populations is essential to achieving sustainable solutions.[7] In fact, the rebuilding of war-torn societies often depends on the effective reintegration and political participation of the displaced, especially in countries where one-fourth or more of the population has been uprooted.

In countries where US military operations, or military operations supported by the US, have directly or indirectly displaced large numbers of people, the US government has a special responsibility. In Iraq, a recent Rand Corporation study found that a failure to reintegrate displaced people could pose serious obstacles to stability and development in the country. Indeed, "absent concerted efforts to integrate displaced populations into new homes and safeguard their lives and livelihoods, poverty among the displaced will worsen," disproportionately affecting women and minorities and boding "ill for Iraq's overall economic development." In addition, "The lack of adequate mechanisms for recovering property, resolving competing claims, and implementing decisions is likely to be a destabilizing factor for years, perhaps decades, to come."[8] In Pakistan, where an estimated 3 million people were uprooted by military operations in 2009,[9] their successful return and reintegration will affect stability in the country as well.

That attention must be paid to addressing both IDP and refugee concerns more comprehensively has also become increasingly clear. The vulnerabilities of IDPs and refugees may

---

[6] For IDP statistics, see Internal Displacement Monitoring Centre (IDMC*), Global Overview of Trends and Developments in 2008*, April 2009; and UN Office for the Coordination of Humanitarian Affairs and IDMC, "Monitoring disaster displacement in the context of climate change," 22 September 2009, p. 9. For refugee statistics, see UNHCR, *2008 Global Trends: Refugees, Asylum-Seekers, Returnees, Internally Displaced and Stateless Persons*, 2009, p.2.

[7] See *Brookings-Bern Project on Internal Displacement, Internal Displacement and the Construction of Peace*, Summary Report, Bogota, Colombia, 11-12 November 2008.

[8] See Olga Oliker, Audra K. Grant and Dalia Dassa Kaye, "The Impact of U.S. Military Drawdown in Iraq on Displaced and Other Vulnerable Populations," Rand Corporation, p. 30, at http://www.rand.org/pubs/occasional_papers/2010/RAND_OP272.pdf; see also Roberta Cohen and Francis M. Deng, *Masses in Flight: The Global Crisis of Internal Displacement*, Brookings Institution, 1998, pp. 5, 292-294.

[9] Internal Displacement Monitoring Centre, "Internal Displacement at Record High," Press Release, May 2010, at www.internal-displacement.org

vary at times and their legal regimes are separate,[10] but operationally, recognition has grown that humanitarian emergencies must be addressed in a more holistic manner with policies designed to protect and assist both groups no matter which side of the border they are on. Indeed, the longstanding disparity in treatment between the two—with IDPs often more numerous and in worse straits yet refugees receiving the lion's share of aid and attention—is no longer considered routinely acceptable. In fact, in appealing for more funds in 2005 to enable the refugee agency to expand its protection role for IDPs, High Commissioner Antònio Guterres observed that UNHCR can "help to ensure that millions of IDPs benefit from the same kind of assistance and protection given consistently to refugees around the world."[11]

THE BEGINNINGS OF AN INTERNATIONAL RESPONSE

While the establishment of UNHCR in 1950 and the adoption of the 1951 Refugee Convention (and '67 Protocol) permitted the development of long-standing structures, budgets and policies for addressing refugee protection both at the UN and within the US government, a foundation for dealing with IDP protection only began to be developed in the early 1990s and remains fledgling.

In 1990, the UN assigned to its Resident Coordinators (RCs) in the field the role of coordinating assistance to IDPs and the following year, created the post of Emergency Relief Coordinator (ERC) to strengthen the coordination of humanitarian assistance.[12] In 1992, a Representative of the UN Secretary-General on Internally Displaced Persons (RSG) was appointed to focus attention on the human rights dimension of the problem and has been working ever since to improve conditions for IDPs around the world despite the position's being only part-time and voluntary.[13] In 1994, the ERC, or Under-Secretary-General for Humanitarian Affairs, became the "reference point" for requests for protection and assistance for IDPs and has been serving as the overall coordinator for the UN response to

[10] The 1951 Convention Relating to the Status of Refugees, supplemented by the 1967 Protocol Relating to the Status of Refugees, provides refugees with substitute legal protection since refugees are outside their countries; IDPs being within their own countries are subject to the laws and jurisdiction of their governments.

[11] Message from the High Commissioner on UNHCR's engagement with Internally Displaced Persons, Geneva, 30 November 2005.

[12] For chronology of institutional arrangements for IDPs, see Roberta Cohen and Jacques Cuenod, *Improving Institutional Arrangements for the Internally Displaced*, The Brookings Institution-Refugee Policy Group Project on Internal Displacement, October 1995, p. 2; and UN Office for the Coordination of Humanitarian Affairs, *No Refuge: The Challenge of Internal Displacement*, 2003, p. 33.

[13] The name of the position changed in 2004 to the Representative of the UN Secretary-General on the Human Rights of IDPs. Francis M. Deng served as RSG from 1992-2004, and Walter Kälin from 2004 to September 2010.

IDPs as head of the Office for the Coordination of Humanitarian Affairs (OCHA) and Chair of the Inter-Agency Standing Committee (IASC).[14] On the ground, UN and other international agencies and NGOs have increasingly become involved in humanitarian assistance, protection and development programs for IDPs, working with governments to promote more effective national and international response. Indeed, most governments today no longer regard people displaced within their countries as strictly a national problem and regularly request outside involvement and aid in internal conflict situations and natural disasters.

A normative framework for IDPs, the Guiding Principles on Internal Displacement, was introduced by the RSG into the UN in 1998 and has become the acknowledged "international framework for the protection of IDPs" as well as the basis for laws and policies adopted by a growing number of countries.[15] The Principles set forth the human rights of IDPs and the responsibilities of governments and international organizations toward these populations. Using the Principles as a guide, the African Union (AU) in 2009 adopted the first legally binding instrument on IDPs—the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa.[16] Once in force, it could become the basis for greater governmental responsibility toward the large number of displaced persons in Africa (some 12 million) and serve as a stepping stone toward greater international accountability toward IDPs.

In the US, USAID and the State Department's Bureau of Population, Refugees and Migration (PRM) became the principal offices involved in supporting greater protection and assistance for IDPs. Indeed, as early as 1991, USAID's Office for Foreign Disaster Assistance (OFDA) was acknowledged to have "the responsibility for assisting people displaced within their own country as a result of natural or man-made disasters" while PRM was acknowledged as a primary funder and implementer of aid to IDPs in particular countries (through its support of UNHCR and other international organizations).[17] In 2004,

[14] The IASC is composed of the heads of the UN's major relief and development organizations and includes as standing members the Red Cross Movement, major NGO umbrella groups, the International Organization for Migration, the Office of the High Commissioner for Human Rights, the Representative of the Secretary-General on the Human Rights of IDPs, and the World Bank. The IASC develops humanitarian policies, decides on divisions of responsibilities and addresses gaps in international humanitarian response.

[15] See UN General Assembly, World Summit Outcome 2005, A/RES/60/1, 24 October 2005, para. 132, at http://www.un.org/summit2005/documents.html; and Walter Kälin, "The Guiding Principles on Internal Displacement as International Minimum Standard and Protection Tool," *Refugee Survey Quarterly,* Vol. 24, No. 3, 2005.

[16] African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 22 October 2009, Art. 12(3) [henceforth The Kampala Convention].

[17] A 1991 amendment to the State Department's Foreign Affairs Manual (2 FAM 066.3) states that the Office of US Foreign Disaster Assistance (OFDA) "has the responsibility for assisting people displaced within their own country as a result of natural or man-made disasters." The State Department's Bureau of Population,

USAID adopted a policy on internally displaced persons which endorsed "a comprehensive response" toward refugees and IDPs, and to achieve this goal, made addressing IDP problems "a priority."[18]

At the UN, a Humanitarian Reform process in 2005 sought to make the international response to IDP emergencies more predictable and accountable. It sharpened the previously relied upon "collaborative approach"[19] among the different UN agencies by assigning lead coordination roles to agencies in their areas of expertise.[20] UNHCR thus took on the lead coordination role for the "protection" of IDPs displaced by conflict and also the lead role for camp management and emergency shelter in conflict situations.[21] Although the US and some other donors at times objected to the agency's assuming a greater role with IDPs, arguing that UNHCR was unable fully to meet refugee needs, the UN reform process prevailed and UNHCR assumed one of the major roles for IDPs in the UN system in line with its expertise for uprooted people.[22] In 2009, UNHCR sought to enlarge its role even more by announcing that it would be willing—subject to international agreement—to act as lead coordinator for the protection of IDPs in natural disasters.[23]

Refugees and Migration (PRM) has the responsibility for coordinating assistance to *refugees* although it is acknowledged as a primary funder and implementer of aid to IDPs in particular countries.

18 USAID IDP Policy, p. 1.

19 Under the "collaborative approach," the different UN agencies shared the responsibility for IDPs coordinated by the Emergency Relief Coordinator. But many evaluations found the system to be failing because the agencies basically picked and chose the situations in which they wished to become involved, resulting in an ad hoc and unpredictable response. See Dennis McNamara, "Who does what?" *Forced Migration Review*, Supplement, October 2005, p. 6; and Cohen and Deng, *Masses in Flight*, pp. 159-168. For the reform process, see Jan Egeland, "Toward a stronger humanitarian response system," *Forced Migration Review*, Supplement, October 2005, pp 4-5. The reform process began as an effort to improve the international response to internal displacement, but then added other issues as it progressed. See Jeff Crisp, Esther Kiragu and Vicky Tennant, "UNHCR, IDPs and humanitarian reform," *Forced Migration Review*, December 2007, pp. 12-14.

20 Under the UN's 2005 reforms, UNHCR assumed the lead coordinating role for the "clusters" on protection, camp coordination/management, and emergency shelter *in conflict situations* (whereas in natural disasters, IOM assumed the lead on camp coordination/management, and IFRC on emergency shelter); UNICEF assumed the lead on nutrition and also on water/sanitation/hygiene; WHO on health; WFP on logistics; FAO on agriculture; OCHA and others on telecommunications; and UNDP on early recovery. See www.humanitarianreform.org

21 UNHCR in its 2010 global appeal reported that it is the lead or co-lead of these different clusters. *UNHCR Global Appeal 2010-2011*, p. 45, at http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=4b0509619&query=global appeal 2010

22 The UN General Assembly and UNHCR's Executive Committee authorized the agency to be involved with groups other than refugees, including IDPs, returned refugees and stateless people, see http://www.unhcr.org/pages/49ed83046.html

23 Opening Statement by Mr. Antònio Guterres, UN High Commissioner for Refugees, at the 60th Session of the Executive Committee of the High Commissioner's Programme (ExCom), Geneva, 28 September 2009. As of this writing, the ERC, donor governments, and other international agencies have not endorsed UNHCR's suggestion. Lead responsibility for the protection of IDPs in natural disasters remains a shared

While all of these efforts represent an important progression toward developing policies and institutional mechanisms for IDPs, the gap between the international community's good intentions and the reality on the ground for IDPs remains considerable. "Internal displacement remains one of the most significant challenges facing the humanitarian community," declared John Holmes, the UN Under-Secretary-General for Humanitarian Affairs in 2008: "Internally displaced persons are less clearly identified and protected than refugees but are often particularly vulnerable."[24] A statement of American NGOs issued at the end of 2008 also observed that when compared to refugee protection, the global response to internal displacement is "weak, characterized by incomplete access to the displaced, lack of clarity as to mandates and responsibilities, and funding that falls well short of what is required. In consequence, hundreds of thousands of people suffer unnecessarily."[25] There is still too little accountability in current approaches toward IDPs who remain exposed to "a wide range of discrimination and human rights violations as a result of deliberate policies or simple neglect."[26] The NGO statement called upon the United States as a leading donor and voice in the humanitarian field "to improve" its response to internal displacement, in particular by addressing "the disparity" between refugee and IDP protection and becoming "a much stronger advocate for finding solutions for internally displaced people."[27]

This paper will examine the steps the US government is taking to create a more comprehensive approach to both refugee and IDP protection throughout all phases of displacement. It will discuss the progress made, identify the shortcomings and challenges that remain to be overcome, and present a set of recommendations for the way forward.

responsibility of UNHCR, UNICEF and the Office of the UN High Commissioner for Human Rights.

[24] John Holmes, "Foreword," Ten Years of the Guiding Principles on Internal Displacement, *Forced Migration Review*, December 2008, p. 3.

[25] Refugees International, NGO Statement on US IDP Policy, 19 December 2008. The statement was signed by 22 NGOs [henceforth NGO Statement on US IDP Policy].

[26] IDMC, *Global Overview of Trends and Developments in 2008*, p. 9.

[27] NGO Statement on US IDP Policy.

BACKGROUND TO US RESPONSE

Over the past decade, three reports have examined United States policy toward internally displaced persons. Two were written by former USAID and State Department officials and the other was published directly by the US government. The first was authored by James Kunder, a former director of the USAID Office of US Foreign Disaster Assistance (OFDA) and subsequently USAID Acting Deputy Administrator [henceforth called the Kunder report].[28] Published in 1999 by the Brookings Institution Project on Internal Displacement and the U.S. Committee for Refugees, it was entitled *The U.S. Government and Internally Displaced Persons: Present But Not Accounted For*. The second was a 2001 report of the US General Accounting Office (GAO), requested by the Senate Foreign Relations Committee and entitled *Internally Displaced Persons Lack Effective Protection* [henceforth the GAO report].[29] The third was a US Institute of Peace (USIP) report, *Orphans of Conflict: Caring for the Internally Displaced*,[30] published in 2005 and authored by Donald Steinberg who served as a Deputy Assistant Secretary of State in the State Department's Bureau of Population, Migration and Refugees (PRM) and Ambassador to Angola [henceforth the USIP report].

All three reports call for greater US and international attention to promoting protection and assistance for IDPs. In the Kunder report, six "elements" are identified to indicate whether the US government is taking the problem of IDPs seriously. They remain relevant today:

1) Legislation to provide a sound statutory basis for US action (neither the Migration and Refugee Assistance Act (MRA) nor the Foreign Assistance Act (FAA) specifically refer to IDPs);
2) Congressional hearings, inquiries and budget reviews relevant to IDPs;
3) Policy documents that authorize government action on IDPs;
4) A lead government agency for IDPs;
5) Adequate financial and human resources; and
6) Expanded ties with international organizations and NGOs.

---

[28] James Kunder, *The U.S. Government and Internally Displaced Persons: Present But Not Accounted For*, Brookings Institution Project on Internal Displacement and U.S. Committee for Refugees, November 1999 [henceforth Kunder report].

[29] US General Accounting Office, *Internally Displaced Persons Lack Effective Protection*, August 2001 [henceforth GAO report].

[30] Donald Steinberg, *Orphans of Conflict: Caring for the Internally Displaced*, US Institute of Peace, October 2005 [henceforth USIP report].

Among his recommendations were:

- An examination of current law to determine whether IDPs are adequately covered prior to, during and subsequent to displacement;

- Congressional hearings on internal displacement and on the adequacy of the US government response;

- The designation of a lead government office on internal displacement—either for all situations or on a case by case basis, and the establishment of an inter-agency coordination mechanism to guide IDP policy and programs.

- An authoritative policy document on IDPs within a broader Presidential Directive on international migration issues;

- Adequate financial and human resources for IDP programs so that funding gaps can be identified, effective policies developed, advocacy undertaken, participation in international debates assured, and targeted assistance and protection programs carried out; and

- Strengthened linkages with UN and regional fora and NGOs on internal displacement.[31]

The GAO report similarly found that both the US and the international community were not dealing effectively with internal displacement. While recognizing the need for additional resources, it said international organizations had failed to take a proactive approach toward IDP "protection" (i.e., physical security in addition to food, medicine and shelter), had not provided adequate training to staff and relief workers, and had failed at effective coordination in the field, at reporting on IDP situations and at the sharing of information among UN agencies, governments, and NGOs, all of which the report argued could go a long way toward improving protection and assistance for IDPs.[32]

As for the US, it underscored that the government "has no overall policy or lead office to coordinate its efforts for dealing with internally displaced persons" and that US humanitarian interests "would be better served with clear policy direction and senior leadership within the federal bureaucracy on internal displacement issues."[33] Although the govern-

[31] Kunder report, pp. 2-3, 16-17.
[32] GAO report, p. 34.
[33] GAO report, pp. 29, 34.

ment, it noted, relied on coordination and cooperation among the different offices involved with IDPs, there was "no overall policy on the funding priority" for IDPs[34] and "little coordination among the various agencies" involved directly or indirectly in assisting IDPs. The result was "limited awareness, overlapping bureaucratic mandates, and fragmented and duplicative efforts," which in turn undermined the US response to humanitarian crises.[35]

The GAO report further found insufficient attention to internal displacement in the State Department's annual *Country Reports on Human Right Practices* and "no standard format" for reporting on IDPs even though they "are particularly vulnerable to human rights violations."[36] Among its recommendations were that the US "work to advance more proactive policies and programs to protect and assist internally displaced persons," focus on IDP issues in its human rights reports, and seek with other UN member states "to strengthen international organizations' protection efforts."[37] Although the author was inclined to recommend a lead government office for IDPs, the State Department quashed the recommendation in favor of "improved coordination and cooperation among the offices involved." [38] The report, however, noted that if problems were to arise in coordinating the response, "the administration might consider designating a lead office."[39]

The USIP report of 2005 builds on the idea of a lead office. After noting the shortcomings of USAID as the lead office, it calls for its reinforcement, namely the appointment of a "watchdog" in the State Department to serve as "the counterpart on the political side of the U.S. government" to deal with potential and actual situations of internal displacement.[40] The "watchdog" would insist that senior policymakers, especially regional assistant secretaries, address "the root cause" of displacement and would interface with a senior official at USAID and at the NSC.

Internal government reports also began to call upon the US to address more effectively the internal displacement issue.[41] A 2000 internal State Department report [henceforth the

---

[34] GAO report, p. 32.

[35] In Colombia, for example, the World Food Program (WFP) received funds from four different US funding sources to support the same type of food assistance programs. Moreover, the funds were provided "without coordination and knowledge about whether this would be complementary or duplicative." See GAO report, p. 30.

[36] GAO report, pp. 32-3.

[37] *Ibid.*, p. 34.

[38] GAO report, p. 31, and Cohen interview, 1999.

[39] *Ibid.*

[40] USIP report, p. 14.

[41] See for example, Department of State, *Interagency Review of U.S. Government Civilian Humanitarian and Transition Programs*, January 2000 [henceforth Halperin-Michel report—the report was co-chaired by Morton Halperin, Director of the State Department Policy Planning Staff and James Michel, Counselor to USAID]; and Dina M. Esposito, *USAID and Internally Displaced Persons: A Discussion Paper*, prepared for

Halperin-Michel report] called for "unified humanitarian leadership in emergencies," noting that "the current decentralized operational structure gives rise to bureaucratic conflict and overlap, especially in regard to internally displaced persons."[42] A 2002 USAID report pointed out that even though IDPs were often among the most vulnerable populations in conflict settings, they "have not received the attention from donors that their number and plight demand."[43] Non-governmental groups and experts similarly urged the US to give greater focus to IDPs.[44] Refugees International's President, for example, told Congress in 1999 that "the silence is deafening as hundreds of thousands of people are displaced [in the Democratic Republic of Congo (DRC)]…"[45]

With large numbers of internal conflicts producing millions of IDPs (e.g. Sudan, Colombia, Sri Lanka, Sierra Leone, the DRC, the former Yugoslavia), and recommendations coming from many influential quarters, the US government began in 2001 and 2002 to take steps to better integrate programs for the internally displaced into its work.

USAID/DCHA/OFDA, 2 December 2002 [henceforth Esposito report].

42 Halperin-Michel report, p. 13.

43 USAID, *Foreign Aid in the National Interest: Promoting Freedom, Security and Opportunity*, PD-ABW-900, 2002, as quoted in USAID Assistance to Internally Displaced Persons Policy Implementation Guidelines, Internal USAID Document, 2004, p. 4 [henceforth USAID Implementation Guidelines].

44 See, for example, Refugees International (RI), Bulletin, 6 August 2001, which warned that "the focus on long term development [to the Federal Republic of Yugoslavia] must not come at the expense of humanitarian assistance" to IDPs, refugees and other vulnerable people; as well as RI Bulletin, 22 June 1999; RI Bulletin 14 September 2000; RI Bulletin 25 April 2001; and RI Bulletin 8 June 2001, which called for greater attention to IDPs in Ethiopia, the DRC and Angola, and for more effective international arrangements for IDPs. See also Roberta Cohen and James Kunder, "Human Rights and Humanitarian Emergencies," Policy Brief 83, Brookings Institution, June 2001; and Roberta Cohen, "Weakened U.S. Support Endangers Angola's Internally Displaced Masses," *African Refugee Network*, Vol. 11, No. 3, March 2002, pp. 4-5.

45 Lionel Rosenblatt, Testimony before House Committee on International Relations, Subcommittee on International Operations and Human Rights, 9 March 1999.

ACHIEVEMENTS

Some of the main achievements of the US over the past decade have been:

THE ADOPTION OF THE USAID POLICY ON IDPS

Following several years of negotiations and drafting, USAID, the government lead on IDPs, released in 2004 the "USAID Assistance to Internally Displaced Persons Policy."[46] The policy points out that there are important humanitarian, human rights, development and political reasons for the US government to help integrate IDPs into the economic and social fabric of their societies. It strongly links US humanitarian and development goals to US national security interests and underscores that the failure to respond adequately to the needs of failed states and large displaced populations can produce national and "regional instability," affect longer-term development, and in some instances enable "disaffected individuals" to turn to international extremism.

The policy broadly encompasses all phases of displacement, from the pre-emergency period through long term reintegration and development aid. This is noteworthy since attention is often focused on the emergency needs of the displaced to the exclusion of the difficulties they face during return, resettlement and reintegration. The "ultimate goal," the policy states, "is to enable IDPs to become fully productive contributors to economic and social progress in their local communities and countries."

The policy also breaks ground in addressing the "protection" needs of the beneficiaries, pointing out that "material assistance alone often cannot ensure the wellbeing of IDPs."[47] It speaks of enhancing "the safety" of IDPs from "violence, abuse, exploitation, and harassment," calls for the inclusion of "practical protection measures" in humanitarian assistance and development strategies, and notes that relief and development assistance are often jeopardized by conflict, unchecked human rights violations and the physical endangerment of IDPs. This focus on protection, it should be noted, required an amendment to the USAID/OFDA *Field Operations Guide* which had earlier excluded "protection" from USAID responsibilities and funding.[48]

---

[46] USAID IDP Policy, supra note 2.

[47] *Ibid.*, p. 8.

[48] USAID/OFDA, *Field Operations Guide for Disaster Assessment and Response*, version 3.0, no date, page III-2, as cited in the Kunder report, p. 12, said that "Assessment Teams and DARTs should not assume any respon-

Further, the policy recognizes that IDPs must not be prioritized alone. Support must also be provided: 1) to host families that absorb and support IDPs at great local expense; and 2) to other at risk populations caught up in emergencies which may endure comparable suffering. As a USAID official explained, crises "are also felt by those in a society who do not leave their homes. Food shortages, civil unrest, loss of livelihoods and limited economic growth affect displaced and non-displaced alike."[49]

ASSIGNMENT OF INSTITUTIONAL RESPONSIBILITY FOR IDPS

As early as 1991, USAID's OFDA (its major humanitarian arm) was acknowledged to have "the responsibility for assisting people displaced within their own country as a result of natural or man-made disasters."[50] USAID's IDP policy strengthened this role by making USAID the "lead U.S. Government agency" for addressing internal displacement and the "lead coordinator on IDP issues at the policy level" in affected countries. Its responsibilities include public and private advocacy to ensure assistance and protection for IDPs, and the planning, implementation and coordination of short and long-term programs to respond to both immediate needs and longer term "durable solutions." In particular, USAID is expected to promote: lifesaving humanitarian access to needy populations; protection for IDPs during *all* phases of displacement; accountability and evaluation of international programs for IDPs; and wider international recognition of the UN Guiding Principles on Internal Displacement. In carrying out these responsibilities, it is expected to work closely with other US government offices as well as international organizations, NGOs, host governments and local institutions.

USAID Implementation Guidelines (a companion document to the IDP policy) provide detailed internal guidance for staff on how to carry out the policy in the different phases of displacement: pre-emergency preparedness, early emergency, care and maintenance, transitional reintegration and long-term development.[51] Like the policy, the Guidelines highlight the "importance of protection" and state that IDPs "should be granted the full security and protection provided for under applicable norms of international human rights, international humanitarian law, and national law." They then provide examples of protection problems and the protection strategies and approaches that should be taken by USAID staff (in particular Disaster Assistance Response Teams - DART) and their NGO partners under headings such as: protection of physical security and freedom of movement; preserv-

sibility for the protection of IDPs."

[49] Letter from USAID official to Director of International Relations and Trade, U.S. General Accounting Office, 31 July 2001, contained in GAO report, pp. 54-5.

[50] See supra note 17.

[51] USAID Implementation Guidelines.

ing family and community; protecting social, economic, and cultural wellbeing of IDPs; and protecting basic freedoms and activities related to return, resettlement and reintegration. USAID missions are urged to review and apply the Guiding Principles on Internal Displacement and to report annually on their assistance activities with IDPs.

In the Guidelines, USAID is specifically tasked with working together with the State Department's PRM, which while responsible for migration policy and coordinating assistance to refugees is also recognized "in some situations" as the "primary funder and implementer" of emergency programs for IDPs.[52] In fact, PRM, which serves as principal humanitarian advisor to the Secretary of State, is the US government's principal funder and policy interlocutor for several multilateral humanitarian organizations, principally UNHCR, the International Organization for Migration (IOM) and the International Committee of the Red Cross (ICRC), all of which play significant assistance and protection roles with IDPs and other war affected populations.

TRAINING IN IDP PROTECTION

USAID/OFDA now offers its staff (and others in USAID) annual training in humanitarian protection that includes the UN Guiding Principles on Internal Displacement and the USAID IDP policy.[53] OFDA's Field Operations Guide, which is used by DART teams in the field, includes information as well about IDP protection; and in disasters, a protection officer will frequently be deployed as part of the DART. OFDA also provides protection training to NGOs and urges them to integrate protection in all aspects of their work; as a result, NGOs increasingly now add protection to their proposals to OFDA for funding, including in sectors dealing with water points and latrines where protection of women can be an issue.[54] Protection training may sometimes extend as well to UN field staff. As for PRM, its staff receives training in general protection and assistance principles and in the monitoring and evaluation of humanitarian programs. To learn about the Guiding Principles, staff members are encouraged to take additional courses at the Foreign Service Institute and other institutions. Because PRM includes at least 50 Foreign Service officers on its staff in Washington and the field, the training can reinforce the work of other bureaus when the FSOs rotate.

---

[52] *Ibid.*

[53] Interviews with government staff, 2010. The training, however, reaches mainly OFDA staff (USAID mission staff in the field only at times receive such training).

[54] OFDA's Proposal Guidelines (p. 26) state that "USAID/OFDA expects that for any disaster context characterized by insecurity and protection problems, Gender Relations and Protection Mainstreaming will be identified as keywords, reflecting that they are integrated components of the proposed intervention."

MORE RESOURCES ALLOCATED FOR IDPS

The US is the single largest donor to UN agencies, international organizations and NGOs that work in countries with significant displacement crises. The US (principally USAID/ Food for Peace and the Department of Agriculture) provides more than 40 percent of the WFP's funding (of $4-5 billion), the majority of which supports emergency operations and protracted relief and recovery programs and which benefited 9.5 million IDPs in 2008.[55] PRM generally funds 25 to 30 percent of UNHCR's budget, which supports assistance and protection for IDPs in a range of countries. This year UNHCR established a separate budget pillar/account for IDP protection and assistance which constitutes 22 percent of its requested budget (of $3 billion) to serve an estimated 16 million IDPs.[56] PRM also makes substantial contributions to the IOM and the ICRC, both of which assist and protect refugees, IDPs, and other vulnerable groups in their country programs. The State Department's Bureau of International Organization Affairs (IO) provides voluntary funding for the core budgets of UNICEF, the UN Development Program (UNDP), the UN Fund for Population Activities (UNFPA), the Office of the High Commissioner for Human Rights (OHCHR), OCHA and Habitat. USAID and PRM also provide small contributions to UNICEF, OCHA and the International Federation of Red Cross and Red Crescent Societies (IFRC). This multiplicity of US donor entities has raised concerns that the U.S. is not maximizing its impact with the UN and other international organizations because the funding and policy input are so diffuse.[57] USAID also provides substantial funding to NGOs that undertake programs for IDPs, while PRM provides small amounts.[58]

US government offices do not report how much money they spend on IDPs; and US legislation governing expenditures for disasters and complex emergencies makes no reference to IDPs. However, it is evident that greater amounts of aid have focused on IDPs than in the past through US contributions to international organizations and NGOs.

A 2002 field survey found that "USAID missions provide significant assistance to IDPs, supporting a wide range of interventions that range from providing basic essential needs to resettlement and legal protection." It said that "IDPs receive a major proportion of resources that are targeted for those most in need."[59]

---

[55] World Food Program, Annual Performance Report for 2008, at http://wfp.org/eb The WFP's budget was $5 billion of which it raised $4 billion.

[56] See UNHCR at http://www.unhcr.org/4abc7cc19.html

[57] InterAction, *Reform Priorities in the Humanitarian Sector*, 22 December 2009, p. 3 [henceforth InterAction statement].

[58] In FY 2009, NGOs received 11.4 percent of PRM's total budget or $159.6 million.

[59] USAID/PPC (Bureau for Policy and Program Coordination), "Survey on USAID Assistance to Internally Displaced Persons," April 21, 2003, as cited in USAID Implementation Guidelines, p. 2. When OFDA did

In FY 2009 (Oct 2008 to Sept 30, 2009) PRM reported that it provided $1.23 billion to international organizations and $159.6 million to NGOs for overseas assistance for refugees, IDPs, stateless and other persons of concern.[60] (In Iraq, the US Embassy in Baghdad reported that the US spent $386.8 million on IDPs and refugees in FY 2009.)[61]

USAID's OFDA responded to 80 natural disasters and "complex emergencies" in FY 2008 affecting at least 202 million people (among them IDPs) in 62 countries.[62] In contrast to PRM, it provided 55 percent of its $739.5 million budget for NGO activities and 30 percent for the UN and other international organizations.[63] In FY 2009, OFDA spent $753 million on disasters or emergencies impacting IDPs and other affected populations, or 71 percent of its budget.[64]

For FY 2010, OFDA is funded at $845 million (slightly below the President's request for $880 million), but far higher than in the past,[65] although in the view of a former OFDA director, a budget of $1-1.2 billion would be more realistic in meeting IDP and other emergency needs each year.[66] Beyond OFDA, the Office of Food for Peace (FFP) also aids IDPs and to a lesser extent the Office of Transition Initiatives (OTI), while USAID country programs through various accounts fund protection, assistance, reintegration and development programs for IDPs in at least 20 countries.[67]

---

track funding to IDPs, more than ten years ago, in FY 2000 it spent $123 million on IDPs in 20 countries, see GAO report, p. 32.

60 Department of State, Bureau of Population, Refugees and Migration, FY 2009 Summary of Major Activities, p. 72.

61 See http://iraq.usembassy.gov/pr_11142009.html

62 Office of US Foreign Disaster Assistance, Annual Report for Fiscal Year 2008, p. 11, available at http://www.usaid.gov/our_work/humanitarian_assistance/disaster_assistance/publications/annual_reports/pdf/AR2008.pdf. OFDA's budget is only 4.8 percent of USAID's overall budget of $15.41 billion. In FY 2009, OFDA spent $753 million on disasters or emergencies impacting IDPs and other affected populations, or 71 percent of its budget.

63 *Ibid.*, p.12.

64 Interview with former government official, 2010.

65 FY 2010 Congressional Budget Justification, at http://www.state.gov/f/releases/iab/fy2010cbj/pdf/index.htm. For FY 2009, the President's initial budget request was $298 million, which Congress subsequently increased to $350 million; two supplemental appropriations boosted OFDA's budget to $820 million. For FY 2008, the President's request was for $297.3 million; Congress provided $429.7 million.

66 Interview with government officials, 2009.

67 See FY 2010 and FY 2011 Congressional Budget Justifications for Foreign Operations, Vol. II, at http://www.state.gov/documents/organization/124072.pdf; and http://www.state.gov/documents/organization/137937.pdf In FY 2011, the country strategies in which detailed efforts are described for IDPs include Afghanistan, Azerbaijan, Armenia, Burma, Burundi, Colombia, Georgia, Haiti, Nepal, Pakistan, Sri Lanka, Somalia and Uganda; other country program descriptions mention only war affected populations, but it can be assumed these cover IDPs—Chad, Central African Republic, DRC, Liberia and Sudan. In FY2010, a specific focus on IDPs was included in 13 country programs.

GREATER CONGRESSIONAL FOCUS ON IDP SITUATIONS

Neither the House nor the Senate has ever held a hearing on internal displacement worldwide or on overall US policy toward IDPs. Nor have public hearings to draw attention to IDPs in specific countries been extensive. Nonetheless, over the past decade, the Congress has focused increased attention on the plight of IDPs in countries or areas of political or strategic interest to the US, where events have galvanized public attention (e.g., Darfur, Sudan) or in discussions on refugee questions. The Congress has accomplished this through hearings, legislation and funding.

In 1991, for example, the House Committee on International Relations held a hearing on legislation to authorize emergency assistance to "refugees and displaced persons" in and around Iraq after the Persian Gulf War, leading to supplementary funding for those displaced.[68] In 2000, the Commission on Security and Cooperation in Europe (CSCE)[69] held hearings on displaced persons in Kosovo[70] and in 2003, looked at "Internally Displaced Persons in the Caucasus Region [Russian Federation, Georgia, Azerbaijan, and Armenia] and Southeastern Anatolia [Turkey]." [71] At this latter hearing, Congressman Joseph Pitts (R-PA) underscored that "Internally displaced persons around the world are some of the most disadvantaged and unprotected peoples" and called for greater US and international involvement in dealing with displacement. "The international community," he said, "has a clear mandate to assist refugees, but does not have clear direction to assist those who are displaced within their own nations, whether from natural disaster or violence."[72] The Co-Chair of the Commission, Congressman Christopher Smith (R-NJ), drew attention to the need to address "protracted situations" of internal displacement with "just, realistic, and durable solutions." [73] For the first time, a formal hearing report included the text of the Guiding Principles on Internal Displacement as well as specific recommendations for dealing with internal displacement, albeit in a specific region.

---

[68] See Proposed Legislation to Authorize Emergency Assistance for Refugees and Displaced Persons in and Around Iraq, HRG-1991-FOA-0062, 23 April 1991, LexisNexis Congressional Hearings Digital Collection; and 15 P.L. 102-55, Dire Emergency Supplemental Appropriations from Contributions of Foreign Governments and/or Interest for Humanitarian Assistance to Refugees and Displaced Persons in and Around Iraq As a Result of the Recent Invasion of Kuwait and for Peacekeeping Activities, and Other Urgent Needs Act of 1991, CIS-NO: 91-PL102-55, December 1991.

[69] The Commission, an "independent agency of the federal government" is composed of 9 Senators, 9 Congressmen and 3 representatives from the Executive Branch.

[70] Commission on Security and Cooperation in Europe, Hearing on Kosovo's Displaced and Imprisoned, 28 February 2000.

[71] Commission on Security and Cooperation in Europe, Hearing on Internally Displaced Persons in the Caucasus Region and Southeastern Anatolia, 10 June 2003.

[72] *Ibid.*, p. 4.

[73] *Ibid.*, pp. 1-2.

The US Congressional Human Rights Caucus, a non-legislative bipartisan group, also began to spotlight internal displacement in its briefings on particular countries. One 2005 briefing on Colombia drew attention to the disproportionate number of Afro-Colombians and indigenous peoples who were being displaced.[74] Another in 2006 focused entirely on IDPs in Armenia and Azerbaijan and solicited recommendations for addressing their problems.[75]

Although the House Foreign Affairs Committee (HFAC), the Senate Foreign Relations Committee (SFRC) and their subcommittees for many years included only secondary discussion of IDPs in their hearings on major foreign policy issues (e.g., Afghanistan, Burma, Iraq, Sri Lanka, the DRC, Sudan, Somalia) or on refugee questions, beginning in 2008, internal displacement in particular countries began to feature as the subject of their hearings, especially in the case of Iraq, given the extensive US involvement.[76] As Senator Robert Casey (D-PA) observed, "We cannot ignore the consequences for regional stability and Iraq's internal order if a large population of dispossessed and displaced individuals remains in place." [77] At the request of Congress, the Congressional Research Service (CRS) prepared special reports on Iraqi refugees and IDPs.[78] Sri Lanka and Pakistan also received attention. The SFRC produced a staff report heavily focused on IDPs in Sri Lanka,[79] and held a special hearing on Pakistan's internally displaced,[80] at which PRM's Assistant Secretary described the challenges of Pakistan's waging military action on the one hand while having to assist 700,000 persons uprooted by these actions on the other. He noted that he raised with Pakistani officials reports of forced returns of IDPs and called for compliance with international principles.[81]

---

[74] Congressional Human Rights Caucus, Briefing on the Human Rights Situation in Colombia: Afro-Colombians and Indigenous People, 8 June 2005. See in particular Testimony of Erin D. Mooney, http://www.brookings.edu/testimony/2005/0608colombia_mooney.aspx

[75] Congressional Human Rights Caucus, Briefing on Internally Displaced Persons in Armenia and Azerbaijan, 16 May 2006. See also Statement of Roberta Cohen, http://www.brookings.edu/testimony/2006/0516humanrights_cohen.aspx

[76] See House Committee on Foreign Affairs, Hearing on Strategic Chaos and Taliban Resurgence on Iraqi Refugees and IDPs, 2 April 2008; House Committee on Foreign Affairs, Joint Hearing before the Subcommittee on the Middle East and South Asia and the Subcommittee on International Organizations, Human Rights, and Oversight, on No Direction Home: An NGO Perspective on Iraqi Refugees and IDPs, 1 May 2008 at http://clerk.house.gov/library/reference-files/110_for_138.pdf; and Senate Foreign Relations Committee Hearing on The Return and Resettlement of Displaced Iraqis, 31 March 2009, at http://foreign.senate.gov/hearings/hearing/20090331_2/

[77] See Senate Foreign Relations Committee Hearing, *ibid*.

[78] See Congressional Research Service, *Iraqi Refugees and IDPs: A Deepening Crisis*, 2007, 2008, 2009, Digital Collection Lexis Nexis, CRDC-ID: FDT 0365, 23 March 2007; FDT 1203, 3 October 2007; FDT 1034, 15 August 2008; and FDT 0184, 13 February 2009.

[79] See Senate Foreign Relations Committee, Report on *Sri Lanka: Recharting U.S. Strategy After the War,* at http://foreign.senate.gov/imo/media/doc/SRI.pdf

[80] See Senate Foreign Relations Committee, Hearing on Responding to Pakistan's IDP Crisis, 29 July 2009, at http://foreign.senate.gov/hearings/hearing/20090729/

[81] Statement by Eric P. Schwartz, Senate Foreign Relations Committee Subcommittee on Near Eastern and

For some twenty years, bills introduced by Members of Congress on conflict or disaster situations have included mention of IDPs (often in the committee reports accompanying appropriations bills). In 1991, the Congress reacted to the widespread displacement and refugee flows resulting from the first Gulf War by passing special authorization and appropriation bills to meet the needs of refugees and displaced persons.[82] From 2007 to 2009, this focus accelerated and Members of Congress introduced 48 bills referring to IDPs, mostly on Iraq but also on Darfur and Chad, Uganda, Sri Lanka and Pakistan.[83] Some of the bills dealt only with IDPs. One, for example, recognized 2007 as the Year of the Rights of Internally Displaced Persons in Colombia;[84] another, adopted in 2009, called on the government of Sri Lanka to address the needs of Tamil IDPs living in government-run camps by working with the international community to release and resettle them and allow foreign aid groups to provide relief and resources.[85] An earlier bill adopted by the House supported a UN code of conduct to prevent the sexual abuse of refugees and IDPs.[86]

The Congress also has demonstrated support for IDPs by its willingness to increase funding for both USAID and PRM often above the President's request for addressing the humanitarian needs of IDPs.[87] The Congress further has supported draw downs of the Emergency Refugee and Migration Account (ERMA) clearly intended for IDPs.

South and Central Asian Affairs, 29 July 2009, *ibid*.

82 See H.R.2122 (102 Congress): "To authorize emergency humanitarian assistance for fiscal year 1991 for Iraqi refugees and other persons in and around Iraq who are displaced as a result of the Persian Gulf conflict," Public Law No: 102-45 (introduced by Rep. Howard Berman); and H.R.2251 (102 Congress): "Making dire emergency supplemental appropriations from contributions of foreign governments and/or interest for humanitarian assistance to refugees and displaced persons in and around Iraq as a result of the recent invasion of Kuwait and for peacekeeping activities…for the fiscal year ending September 30, 1991," Public Law No: 102-55 (introduced by Rep. Jamie L. Whitten).

83 See for example Senate Resolution 632 of 11 April 2007 (introduced by Sen. Russell Feingold), calling on the US government and the international community to promptly develop, fund, and implement a comprehensive regional strategy in Africa to protect civilians, facilitate humanitarian operations, contain and reduce violence, and contribute to conditions for sustainable peace in eastern Chad, northern Central African Republic, and Darfur. The House similarly passed H. Res. 1011 (authored by Rep. Frank Wolf) on 5 May 2008. Rep. Howard Berman on 20 June 2008 introduced H. Res. 1290 "Joining the Office of the United Nations High Commissioner for Refugees in observance of World Refugee Day and calling on the United States Government, international organizations, and aid groups to take immediate steps to secure urgently needed humanitarian relief for the more than 2,000,000 people displaced by genocide in the Darfur region of Sudan."

84 See House of Representatives H. Res. 426 (introduced by Rep. Jim McGovern), "Recognizing 2007 as the Year of the Rights of Internally Displaced Persons in Colombia," 2007.

85 House of Representatives, H.RES.711, 111th Congress, 4 November 2009.

86 See Humanitarian Assistance Code of Conduct Act of 2005, H.R. 912.EH, 109 Congress, 2005.

87 Congressional action on the Supplemental Appropriations for FY 2008 and 2009 increased PRM and USAID funding above the President's request, see supra note 65.

INCLUSION OF IDPS IN STATE DEPARTMENT HUMAN RIGHTS REPORTS

Beginning in the late 1990s, the US for the first time began to include information about IDPs in its human rights reports.[88] By 2005, a separate Internally Displaced Persons section was added to the country reports with information about the treatment of IDPs also integrated into other relevant parts of the report.[89] Thus, the 2008 report on Sudan has a special section on the 2.7 million IDPs in Darfur and also describes the treatment of IDPs in its introductory summary as well as in other sections of the report (e.g., arbitrary arrest or detention; arbitrary interference with privacy, family, home or correspondence; use of excessive force and other abuses in internal conflicts; killings; physical abuse, punishment and torture; property restitution; and children).[90] Although not all reports adequately include IDP information, the increased reference to IDPs in the reports acknowledges the human rights dimension of the problem and helps facilitate the use of bilateral diplomacy, media, and public opinion to encourage governments to fulfill their responsibilities to protect and assist IDPs.

US SUPPORT FOR REGIONAL ARRANGEMENTS FOR IDPS

In 2003, at the urging of Members of Congress, the US mobilized other governments to acknowledge the Guiding Principles on Internal Displacement at the Organization for Security and Cooperation in Europe (OSCE), to which the US belongs. At the OSCE's Human Dimension Implementation Meeting, the US proposed: 1) an OSCE Ministerial Commitment to the Guiding Principles as a framework for OSCE activities on forced displacement; and 2) an OSCE special meeting on internal displacement.[91] US delegates persuaded Russia, Armenia and Turkey to join the US, the European Union, Azerbaijan and other states in supporting these two initiatives. As a result, a Ministerial Commitment to the Guiding Principles was adopted in December 2003, and a special meeting on internal displacement was held in November 2004 in Vienna. Both initiatives were good examples of US efforts at the regional level to promote attention to IDPs and to get a regional organization to integrate internal displacement into its policies and programs.

---

[88] Kunder report, pp. 4-5.

[89] In 2007 the title of the section under which IDPs are placed was changed from "Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation" to "Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons."

[90] Department of State, "2008 Human Rights Report: Sudan," *2008 Country Reports on Human Rights Practices*, 25 February 2009.

[91] Statement of Roberta Cohen, Member of the US Delegation to the Organization for Security and Cooperation in Europe, Human Dimension Implementation Meeting, Warsaw, 10 October 2003.

Congressman Christopher Smith (R-NJ) also succeeded in getting paragraphs on IDPs and the Guiding Principles incorporated into the OSCE Parliamentary Assembly's Rotterdam Declaration.[92]

US INSISTENCE ON MORE EFFECTIVE INTERNATIONAL INSTITUTIONAL ARRANGEMENTS

Of all US government officials, it was Richard Holbrooke, the Ambassador to the UN, who publicly brought to the fore the shortcomings in the UN's "collaborative approach" for dealing with IDPs.[93] After visiting Angola in 1999, and seeing that 4 million IDPs were faring worse than 12,000 refugees, he publicly criticized a system whereby the different UN agencies shared responsibilities for protecting and assisting IDPs. "Co-heads are no heads," Holbrooke said; there was little or no accountability for IDPs. He urged a new arrangement whereby *one* UN agency would assume responsibility for IDPs in all emergencies or different agencies would lead on a case by case basis. He in particular called upon UNHCR to expand its role, given its expertise with protecting uprooted populations.[94] When he became President of the UN Security Council, Holbrooke convened a session on refugees and IDPs in Africa in 2000 and challenged the UN to define a predictable and accountable system for addressing the protection and assistance needs of the internally displaced. He issued the Security Council's first Presidential statement on internal displacement, held up the Brookings book *Masses in Flight* [95] before the Council and urged its members to take action on the global crisis of internal displacement.

In doing this, Holbrooke by all accounts went beyond State Department instructions. His suggestion that the UN's collaborative approach be replaced by UNHCR global leadership for IDPs[96] met with fierce resistance from the other humanitarian organizations. But his comments provoked a needed international debate over the weakness of IDP institutional arrangements and in great measure led to UN Humanitarian Reform in 2005 and the assignment of automatic lead responsibility in emergencies to different UN agencies in the sectors or "clusters" in which they had expertise.[97] The reason given for the new approach was exactly what Holbrooke had found—"the absence of operational accountability

[92] Rotterdam Declaration of the OSCE Parliamentary Assembly, 5-9 July 2003, paras. 71, 83, 86-88.
[93] See supra note 19.
[94] See Barbara Crossette, "U.N. Studies How Refugees Qualify to Get Assistance," *New York Times*, 14 January 2000; and Richard Holbrooke, Statement at Cardozo Law School, New York, 28 March 2000.
[95] Cohen and Deng, *Masses in Flight.*
[96] Holbrooke, Statement at Cardozo Law School, supra note 94.
[97] See supra notes 19 and 20.

and leadership in key sectors of IDP-specific vulnerability."[98] The "cluster approach" has enlarged UNHCR's responsibility toward IDPs, especially in the area of protection, as Holbrooke urged, and the approach has been praised by RSG Kälin who while pointing out limitations also noted that it has "had a remarkable impact on the United Nations' engagement in situations of internal displacement, especially in the emergency phase with clearer responsibilities assigned and better coordination provided."[99] The UN's 2005 reform program has also been praised for improving upon an earlier multilateral fund with the creation of the Central Emergency Response Fund (CERF). It provides immediate funding for relief needs for IDPs and other affected populations in sudden emergencies and in neglected or under resourced situations (including some protracted IDP crises).[100] The US, however, has preferred bilateral to multilateral funding and contributed marginally to the CERF (see next section).

[98] Humanitarian Response Review, An independent report commissioned by the United Nations Emergency Relief Coordinator & Under-Secretary-General for Humanitarian Affairs, Office for the Coordination of Humanitarian Affairs (OCHA), August 2005, pp. 49-50.

[99] UN Human Rights Council, Report of the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, A/HRC/13/21, 5 January 2010, para. 59. See also IDMC, *Internal Displacement: Global Overview of Trends and Developments in* 2008, pp. 31-33.

[100] See http://ochaonline.un.org/CERF/WhatistheCERF/tabid/3534/language/en-US/Default.aspx. The previous fund was called the Central Emergency Revolving Fund.

SHORTCOMINGS AND CHALLENGES

Despite the impressive forward movement in integrating IDP needs into US policies and programs, major shortcomings and challenges remain. They include:

CONTINUED OMISSION FROM US LAW OF ADEQUATE REFERENCE TO IDPS

The Migration and Refugee Assistance Act (MRA), adopted in 1962, which authorizes operations and humanitarian funding to PRM primarily for international organizations,[101] maintains a name that fails to convey the US' need to respond not only to refugees but to IDPs and other affected populations. To be sure, the MRA does encompass 'others' and the US can continue on a *de facto* basis to increase its focus on IDPs. But the omission of explicit reference to displaced persons in the legislation is not in step with the US' increasing support for IDPs internationally or with Congressional legislative provisions that increasingly reference displaced persons or cite refugees, IDPs and other war affected populations as intended beneficiaries.

The Kunder report argued that because the MRA does not explicitly recognize IDPs as a population of concern, IDPs received aid only "indirectly." [102] It found that while most of the annual allocation PRM received under the MRA went to UNHCR and ICRC, these organizations did not focus necessarily or proportionately on IDPs; rather, the internally displaced received support when these agencies decided to extend it. US law, concluded Kunder, "provides minimal, but not sufficient foundation for U.S. government action on behalf of internally displaced persons."[103]

The Foreign Assistance Act (FAA) of 1961, which authorizes USAID's programs, in particular OFDA and the International Disaster Assistance (IDA) fund, gives broad flexible authority for responding to the victims of natural and human made disasters. This can be understood to include IDPs but they are not specifically mentioned.[104] Moreover, the FAA response is largely understood as material assistance with limited attention to protection

[101] Congress annually funds through appropriation bills, with $1.8 billion provided for in FY 2010.
[102] Kunder report, pp. 3-4.
[103] *Ibid.*
[104] Flexible authority in the FAA was reinforced by a 1975 amendment which includes the provision, "not withstanding any other provision of law." IDA was first authorized in 1975.

activities, even though protection activities are essential to IDP security in all phases of displacement,[105] both in conflicts and natural disasters. Indeed, the USAID/OFDA *Field Operations Guide* was amended to include protection activities,[106] but the lack of reference to protection in the FAA serves to undermine attention to protection and may in part explain why only 5 percent of OFDA's budget was devoted to protection in FY 2008 and why many bilateral development programs have failed to include IDPs and their protection needs.[107] When Congressional intent is conveyed in legislation, US and international attention much more readily follows.[108]

Again, the development and capacity building programs authorized through the FAA can be assumed to apply to IDPs since the aid is intended to improve the lives of "the poorest." Yet the lack of specificity in the law can lead to less predictable political and programmatic attention to IDPs. In post-conflict situations, for example, many IDPs face difficulties in sustaining themselves and reintegrating or resettling, but the law does not require USAID and State Department officers to encourage foreign governments to design reintegration and development plans for regions with heavy concentrations of IDPs. In Turkey, for example, Kurdish IDPs would benefit immensely were their government to energetically develop the regions where large numbers of IDPs reside or help those displaced in urban areas who are having difficulty sustaining themselves. Under the existing FAA, the US is not required or encouraged to become proactive on this score.

The FAA does reference "displaced persons" in a few instances, although these references are largely tied to specific authorizations of programs in particular countries or regions.[109] USAID also has authority from Congress to provide food aid to IDPs through its Food for Peace and P.L. 480 programs. The African Conflict Resolution Act of 1994 provides USAID with the authority to undertake activities to prevent violence and by implication, population displacement.[110] Moreover, the House Appropriations Committee in its announcement of the State and Foreign Aid Appropriations bill for FY 2009 noted that PRM and OFDA's funding was to help "displaced people."[111]

---

[105] Kunder report, pp. 4-5.

[106] See supra note 48.

[107] Office of US Foreign Disaster Assistance, Annual Report for Fiscal Year 2008, supra note 62.

[108] See for example the impact of Congress on US and international action to prevent and respond to trafficking, E. Benjamin Skinner, *A World Enslaved*, at http://www.foreignpolicy.com/articles/2008/02/19/a_world_enslaved?page=full

[109] For example, the FAA speaks of the rehabilitation and resettlement needs of the displaced in Africa, see Foreign Assistance Act, Chapter 9, section 495F, as cited in the Esposito report, p. 20; and it also speaks of assistance for the displaced in the South Caucasus and Central Asia, see Foreign Assistance Act, Chapter 12, section 498, and Chapter 11, section 498, as cited in the Esposito report, p. 21.

[110] Esposito report, p. 21.

[111] Refugee Assistance: $971 million, $104 million above 2008 (not including $350 million in emergency appropriations), to help displaced people around the world with food, water, shelter and other basic needs-- in-

However, there is no overall explicit reference to the internally displaced in US authorization or appropriations legislation. This weakens advocates' efforts to press for increased attention and resources to encourage solutions for IDPs and heighten prospects for stability and development in affected countries.

ABSENCE OF AN OVERALL US GOVERNMENT POLICY ON HUMANITARIAN AID

There is no overall US government policy on humanitarian aid that spells out the objectives of that aid, the precise meaning of vulnerability, and who the beneficiaries should be (i.e., IDPs, refugees, stateless, other war affected populations, etc.). Government staff interviewed said they would welcome an overall humanitarian policy to guide their work and acknowledged that this could be useful for IDPs.[112] As the world's largest single humanitarian donor, the absence of a policy can mean case by case responses, lack of clarity as to who the aid goes to, and new humanitarian structures and justifications each time an emergency arises. Moreover, without transparent needs based criteria and guidelines, charges can more easily be made against the US about politicizing aid and undermining humanitarian neutrality, as was the case recently in Somalia where the US was accused by UN officials of holding up needed food aid shipments to IDPs and others on political grounds.[113]

The NGO coalition InterAction has urged the US government to implement uniformly a clear standard for providing aid so that greater transparency becomes possible in funding decisions and politics plays less of a role.[114] It expressed concern over the intrusion of the military into traditionally civilian humanitarian work, pointing out that the Defense Department's view of assistance "as a useful tool of US security policy" has been compromising "the impartiality of US aid" and reducing "the quality and effectiveness of that aid."[115] And it asked for greater attention to IDPs since the absence of a policy framework makes

cluding humanitarian assistance for Gaza. Disaster Assistance: $350 million, $30 million above 2008, (not including $200 million in emergency appropriations) to avert famines and provide life-saving assistance during natural disasters and for internally displaced people in Iraq and elsewhere around the world. See http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_house_committee_prints&docid=f:47494h.pdf (2009)

[112] Interviews with government officials, 2009-2010.

[113] UN officials claimed that the US held up needed food aid "based on unfounded accusations that it would be diverted to terrorists." See Jeffrey Gettleman, "U.N. Officials Assail U.S. on Limiting Somali Aid," *New York Times*, 18 February 2010. The UN, however, found that some food aid was being diverted, see Jeffrey Gettleman and Mohamed Ibrahim, "U.N. to End Some Deals For Food To Somalia," *New York Times*, 12 March 2010.

[114] InterAction statement, p. 2.

[115] *Ibid*., p. 3.

unclear to what extent IDPs will receive assistance and protection and whether the aid will extend beyond the emergency phase to include early recovery, reintegration and development support.

In a statement to UNHCR's Executive Committee in 2009, the US representative said that "The protection of refugees, internally displaced, stateless persons, and other vulnerable populations is among my government's highest priorities."[116] Yet the lack of an overall humanitarian policy removes any explicit obligation on the part of US government officials to account for how they support vulnerable groups, including IDPs, or undertake efforts bilaterally or multilaterally to prevent or resolve displacement.

FAILURE TO DISSEMINATE, IMPLEMENT AND MONITOR THE USAID IDP POLICY

The USAID IDP policy, in existence for more than five years, is the only US policy specific to IDPs. Yet it is not well known among USAID staff outside OFDA and the Bureau for Democracy, Conflict and Humanitarian Assistance (DCHA), which houses OFDA. The policy was designed to make IDPs a priority throughout the entire agency, yet by all accounts it is not regularly applied in many of the countries where USAID operates. One former USAID official estimated that 80 percent of USAID staff, including contractors, did not know about its provisions.[117] Nor have any evaluations of the policy and how it has been implemented been conducted.

One of the reasons given for this is that many regional bureaus and country offices see IDPs as an OFDA emergency responsibility, not theirs. Another is that USAID's programs generally target the most *vulnerable* so various staff assume that IDPs are covered together with other vulnerable groups.[118] The 2002 Esposito report, intended to bolster USAID's involvement with IDPs, assured that "IDPs are often the predominant group assisted or a high priority group among the vulnerable populations assisted." [119] As a result, USAID offices do not necessarily reference IDPs in their programming or reporting even though one of the major reasons for the USAID policy was to acknowledge that IDPs have special needs by virtue of their displacement, particularly protection, and that special programs are required to effectively help them.

[116] US Delegation Statement to UNHCR's Executive Committee, October 2009, p.1.
[117] Interview with former USAID official, 2009.
[118] USAID Implementation Guidelines, p. 2.
[119] Esposito report, p. 9.

Among State Department and also some National Security Council (NSC) and Congressional staff, the USAID policy is even less well known than among USAID's staff. Interviews reveal a lack of dissemination of the policy, lack of familiarity with its provisions, and lack of monitoring of its implementation abroad. Yet according to the policy, USAID and other "U.S. Government entities" are supposed to work closely together in carrying out the policy.[120] Testifying before the Senate in 2009, senior DCHA official Jon Brause highlighted USAID's IDP policy and the agency's efforts to work with US government agencies, NGOs and the UN "to implement and strengthen protection activities and mobilize funding for vulnerable populations."[121]

Other government bodies,[122] including the Federal Emergency Management Agency (FEMA), which oversees natural disasters in the United States, have little or no awareness of the IDP policy, even though they are directly involved with people displaced by disasters. To be sure, the USAID policy was intended for application overseas, but its terminology and concepts of protection could be useful in developing policies and programs for Americans uprooted at home as well as for populations outside the US with whom FEMA sometimes becomes involved (FEMA for example sent staff to Haiti at the time of the 2010 earthquake).

LACK OF ADEQUATE IDP SPECIALIST STAFF IN THE STATE DEPARTMENT AND USAID

Since 1999, PRM has a staff member who serves as "focal point on internally displaced persons at a policy development level."[123] However, the staff member has many other responsibilities on her plate, so she is not in a position to devote all the time that is needed to develop strategies for better protecting IDPs, preventing displacement and encouraging its resolution. In 2010, PRM hired a full-time consultant to help increase the bureau's protection capacity, including for IDPs, but it is not yet clear whether the position will become permanent.

To be sure, PRM staff have expanded their involvement with IDPs over the last three to five years. Indeed, PRM argues that it now has a "holistic" view when it comes to refugees,

[120] USAID IDP Policy, p. 1.
[121] Statement by Jon C. Brause, Deputy Assistant Administrator, USAID, before the Senate Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs, 29 July 2009.
[122] Sixty federal offices are involved with global development policies and programs, see Senate Report 111-122 accompanying S.1524 Foreign Assistance Revitalization and Accountability Act of 2009, p. 18.
[123] Letter of Julia V. Taft, Assistant Secretary for Population, Refugees and Migration, to Roberta Cohen, December 27, 1999.

IDPs and stateless persons and that it has effectively "mainstreamed" IDPs into its work at both the policy and operational level. Its Western Hemisphere program officer, for example, has a primarily IDP caseload (e.g., Colombia), while its program officers concerned with the Great Lakes region of Africa and with Europe also deal extensively with IDPs. Many of the crises PRM has addressed over the past year deal largely with IDPs (e.g., Sri Lanka, Pakistan, Haiti) while others have mixed caseloads of refugees and IDPs (e.g., Somalia, Sudan, DRC, Chad).

Yet the fact remains that for more than thirty years PRM staff have been mainly preoccupied with refugee protection and that their experience with IDP protection and sense of responsibility toward IDPs are far less strong than for refugees. In situations where there are mixed caseloads of refugees and IDPs, a predisposition of staff members toward refugees could seriously affect the extent to which IDPs are assisted and protected. Until the UN's humanitarian reform process in 2005 and even several years thereafter, PRM staff members were often opposed to or lukewarm about UNHCR's expanding involvement with IDP protection. They feared that UNHCR's taking on new beneficiaries would undermine refugee protection. Even today when staff members express strong support for UNHCR's role with IDPs as well as their own growing involvement, they often caution that it can not be "at the expense of refugee programs."[124] PRM's training programs for staff reflect this predisposition toward refugees. Staff members are expected to know about the Refugee Convention but they are only "encouraged" to take more in-depth courses to learn about the Guiding Principles on Internal Displacement.

Against this background, the absence of IDP specialists at senior and mid-level positions to advocate for IDPs and help integrate their protection needs into the bureau's policies and programs serves as an obstacle to effective mainstreaming. IDP protection after all requires a different set of skills than refugee protection. For refugees, protection mainly means defending their legal right to asylum and *non-refoulement* in accordance with the Refugee Convention whereas in the case of IDPs, for whom there is no internationally recognized legal agreement, protection involves defending their physical safety and the broad range of human rights to which they are entitled. It encompasses protection against

[124] Interviews with government officials, 2010. This accords with the 2009 PRM-UNHCR Framework Agreement, see http://www.unhcr.org/pages/49fab68a6.html, p. 4, item vi. The FY 2010 agreement also states that "PRM has consistently urged UNHCR to focus its limited resources on its mandate, while encouraging other appropriate actors to address non-mandate issues (like natural disasters and development)," at http://www.state.gov/documents/organization/141468.pdf, p. 2, item III. However, the UNHCR Global Needs Assessment: Prioritization for 2010 supports a needs-based allocation of funds that will cover all UNHCR's "persons of concern," including IDPs, although it does say that priority consideration must be given to the needs of refugees and stateless persons consistent with UNHCR's mandate, see http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=49e8a2462&query=global needs assessment, p. 4 and http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=4a48dadf9&query=global needs assessment 2010, p. 4.

displacement, during displacement and during return or resettlement. Tools for carrying out such protection can range from taking preventive measures to monitoring and reporting on protection problems, developing protection plans and working groups to implement the plans, increasing international presence in camps and areas of danger, promoting the Guiding Principles on Internal Displacement, engaging with non-state actors, evacuating persons at risk, advocating with government officials, helping to develop national capacity, supporting host communities, prodding UN headquarters and other governments to engage in advocacy, accompanying IDP returns and helping with reintegration and property issues.[125] Still lacking at PRM is staff appreciation of IDP protection needs in the same way it understands refugee protection. Until such time as genuine balance is achieved, specialized staff will remain essential.

At USAID there is also inadequate staffing when it comes to IDPs. A Senior Adviser on IDPs was appointed in 2003 within OFDA but the position did not have a great deal of clout and was discontinued in 2007 after its mission was reportedly "completed;" it was replaced by a mid-level Internal Displacement and Protection Advisor, who has no counterparts outside of OFDA, in particular in the regional bureaus that deal with country programs. As a result, one staffer observed, "IDPs are seen as an OFDA issue, not as everyone's issue."[126] But even within OFDA, one person alone can not ensure that the office becomes proactive on protection for displacement affected communities in each emergency, and also effectively monitor and evaluate the programs OFDA funds on IDPs. Nor can one OFDA staff member be expected to persuade other offices in USAID to carry out the IDP policy and integrate IDP concerns into post-emergency programs.[127]

CONTINUED LACK OF INSTITUTIONAL CLARITY IN DEALING WITH IDPS

Although USAID has the "lead" responsibility in the US government when it comes to people displaced within their own countries, in reality it shares much of the job with the State Department's PRM bureau. PRM is tasked with the development and implementation of US humanitarian policy in partnership with DCHA[128] and provides the funding, policy advice and oversight to the major international organizations involved with IDP protection (UNHCR, ICRC and IOM). PRM also provides some funding to NGOs to

[125] See UN Inter-Agency Standing Committee, Policy Paper on Protection of Internally Displaced Persons, OCHA, New York, 2000.
[126] Interview with USAID officials, 2010.
[127] *Ibid.*
[128] See US Department of State, Congressional Presentation Document, Migration and Refugee Assistance, Emergency Refugee and Migration Assistance, Fiscal Year 2011, p. 3.

fill gaps in multilateral programs with IDPs and other vulnerable groups. USAID's Implementation Guidelines acknowledge the strong role played by PRM with IDPs: in "some situations," it says, PRM is the "primary implementer and funder" of emergency programs on behalf of IDPs, such as in the former Soviet Union, the Balkans, Sri Lanka, and Colombia.[129] USAID primarily funds NGOs, including those involved with IDPs (eg. enabling them to undertake field programs, develop Sphere standards, and participate in the IASC and cluster working groups); and it provides in-kind support to WFP and project support to OCHA, UNICEF and other international humanitarian organizations.

USAID/DCHA and PRM have different sources of authority, competencies and modes of operation which are reflected in their differing approaches to humanitarian assistance. DCHA's approach is primarily bilateral through NGOs whereas PRM's is largely multilateral through international organizations primarily concerned with protection. Given the differences between the two as well as the potential for duplication, a 2004 agreement sets forth a division of responsibilities.[130] It recognizes PRM's primacy when it comes to funding refugees and UN agencies like UNHCR, ICRC and IOM when they protect and assist IDPs; and it recognizes DCHA's primacy when it comes to IDPs in natural and human made disasters and when the funding of WFP and NGOs is required. It notes, however, that "in many complex emergencies [i.e., conflict situations] IDP, refugee, returnee and other vulnerable populations are co-located."[131] In these situations, it affirms that the two bureaus will engage in "cooperation and coordination in the development of US humanitarian policy" and in the funding of international organizations and NGOs. Such cooperation, the agreement notes, is "necessary" to "the efficiency and cost-effectiveness of their combined humanitarian efforts."[132] The agreement provides for DCHA and PRM working level and quarterly consultations on policy and funding issues (to be chaired by a senior official of each agency on a rotating basis) and an annual joint performance review.

The consultation process between the two, however, broke down with no "formal" consultations held from 2007 to 2009[133] although the two bureaus continued to work together on a daily basis on initiatives affecting IDPs. In great measure the breakdown was due to disputes over UNHCR's expanding role with IDPs under the UN's cluster system.[134] In contrast to DCHA, PRM did not support UNHCR's greater role with IDPs. Being the refugee bureau, it was concerned that "a growing IDP workload" would undermine UN-

[129] USAID Implementation Guidelines, p. 8.
[130] See PRM-DCHA Coordination and Funding Guidelines in Complex Humanitarian Emergencies, 1 June 2004 (internal document).
[131] *Ibid.* p. 3.
[132] *Ibid.* p. 1.
[133] Interviews with government officials, 2009-2010.
[134] *Ibid.*

HCR's mandate for refugee protection and assistance and wanted to see UNHCR better "balance" these competing responsibilities before taking on added IDP obligations. Thus, in the Ivory Coast, for instance in 2007, PRM opposed funds for an IDP protection program proposed by UNHCR whereas USAID/OFDA offered to fund the program. PRM argued that UNHCR was "dropping the ball" on its refugee programs and that the IDP program was not well designed. It also objected to USAID's offer of support on the grounds that PRM is "the decision maker" when it comes to UNHCR and has "the institutional and field based knowledge" to back up that role. To USAID, however, PRM's goal was "zero communication" between USAID and UNHCR even though there was a protection gap in the field and USAID was ready to fill it. In the end, PRM helped UNHCR to redesign the program and USAID funded it, but the controversy demonstrated the differences in views between PRM and OFDA about how to address refugee and IDP needs, the turf battles between the offices, and how these disputes delay protection and assistance for IDPs.[135]

Such disagreements also proved confusing to international and non-governmental humanitarian organizations in the field. According to the GAO, NGO implementing partners have not always been sure "about which groups [refugees or IDPs] should be provided assistance."[136] International organizations have been confounded as well by the "mixed signals" coming from PRM and USAID. At the start of the Darfur crisis, for example, UNHCR reported that "USAID was calling for UNHCR's active engagement to assist IDPs in Sudan, whereas PRM—UNHCR's mandated funder—was discouraging it."[137] PRM opposed UNHCR's involvement for two reasons: 1) PRM considered UNHCR to be "demonstrating poor capacity and performance" in its response to Darfur's refugees in neighboring Chad; until there was a better response to refugees, an IDP program would not be approved; and 2) PRM didn't want to give Chad's president an excuse to expel Darfur's refugees by helping IDPs within Sudan. It was not until "UNHCR's performance in Chad improved and the threat of *refoulement* abated" that PRM agreed to an enlarged role for UNHCR in Darfur.[138] PRM's main view of the emergency came from a refugee lens. The fact that hundreds of thousands, if not millions of Darfurians were being forced from their homes and displaced internally by mass atrocities and genocidal acts did not seem to weigh in with the refugee office.

Under the Obama Administration, US policy toward IDPs and UNHCR's role with them has begun to change. PRM's leadership has been expressing strong and "aggressive" support for UNHCR's growing responsibilities with IDPs. Although some NGOs question

[135] Interviews with current and former US government officials, 2009-2010.
[136] GAO report, p. 30.
[137] USIP report, pp. 12-13.
[138] Interview with US government officials, 2010.

whether the shift is genuine,[139] a change does seem to be taking place and it could lead to more effective coordination between PRM and DCHA. At the same time, PRM's expanded role with IDPs could also lead to greater bureaucratic competition, were PRM to seek aggressively to "lead" on IDPs. As a former PRM official observed, with each new emergency there is a "turf battle."[140] Or as another government official put it: "Too much time is spent on turf issues."[141]

At present efforts are being made to improve working relationships between PRM and DCHA, but it is also evident that the current working arrangements between the two do not always easily lend themselves to close cooperation. As one expert emphasized, there is often a structural "disconnect" when PRM and DCHA both protect and assist IDPs.[142] That this is long-standing is evident from the Halperin-Michel report of over a decade ago which observed that the "split" between State and USAID over humanitarian emergency programs resulted in "less than coherent leadership" when it came to IDPs. Although the traditional division between refugees and IDPs has eroded, State and USAID both serve these two populations in a division of labor that does not always "overcome the obvious overlap of mandates and duplication of effort." Creating unified leadership, it said, would require either "enhanced coordination" or "much more robust institutional reorganization."[143]

Whether the US today monitors the UN's "cluster approach" in a unified manner is not entirely clear. Both PRM and OFDA have been involved in evaluating "cluster implementation" in different emergencies (e.g., Pakistan, Haiti), PRM has monitored cluster pilots in several African countries, and OFDA has participated in actual cluster working groups at headquarters and country levels (e.g., health, logistics). At the same time, PRM is primarily engaged in monitoring and funding the clusters led or co-led by UNHCR (protection, camp management, and emergency shelter) given its principal relationship with that agency. The clusters led by other agencies, such as UNICEF and UNDP, do not seem to be as consistently followed by PRM or by USAID. In the case of early recovery, led by UNDP, the cluster is reported to be faltering from poor direction as well as policy neglect and under funding by donor governments (whose budgets are usually divided between relief *or* development funds and not able to easily reprogram into early recovery).

---

[139] One NGO representative suggested that the supposed shift is more rhetorical than evidence-based: "Where is the evidence of this shift in attitude other than a slightly more positive statement at ExCom?" Interview with NGO representative, 2010.

[140] USIP report, p. 13; and interview with former US government official, 2009.

[141] Interview with US government officials, 2009.

[142] Interview with IDP expert, 2009.

[143] Halperin-Michel report, pp. 4, 7, 10.

In the case of natural disasters, questions arise as well. Traditionally natural disasters have been an area led and funded by USAID, yet UNHCR, which PRM funds, recently expressed its willingness to act as the lead protection coordinator in such disasters. Will PRM therefore on a regular basis monitor and fund the protection needs of IDPs in disasters, or will it leave all natural disaster response to USAID? Some in PRM are not supportive of UNHCR's taking on a lead protection role in natural disasters, preferring that it limit its role to those countries where it has presence; others however in PRM have a more expansive approach. In Haiti, during the earthquake, many protection problems arose for IDPs and other affected populations. While USAID/DCHA-OFDA undertook the main assistance role and provided the bulk of funding, PRM deployed a protection consultant on the ground and Assistant Secretary Eric Schwartz visited the post-earthquake devastation to look at the encampment problem, the UN's protection cluster and other concerns, and the State Department announced a contribution of $10.5 million for UNHCR and others to undertake *protection* measures and other activities (e.g., safeguarding women and children in settlements, anti-trafficking) in the aftermath of the earthquake.[144] Nonetheless how PRM and USAID in the future will share the IDP protection responsibility in natural disasters remains unclear.

Adding to the picture is that other US offices are also involved with the UN's cluster approach. The State Department's IO Bureau, the US Ambassador to the UN (now a Cabinet level position), and US Missions to the UN promote US policies and concerns at the UN, including in the humanitarian area. IO furthermore oversees payments of core voluntary contributions to UN humanitarian organizations (e.g. UNICEF, OHCHR, UNDP, UN Development Fund for Women (UNIFEM), UNFPA, etc.) as well as assessed contributions to the UN and its peacekeeping operations, and for specialized agencies (e.g., the Food and Agriculture Organization (FAO) and the World Health Organization (WHO).

Because of the varied levels on which IDP problems are addressed, many do not see USAID as the "solution to the US response problem"[145] and question whether it should have the exclusive lead role with IDPs. On the plus side, USAID is operational, has staff around the world (more than 73 missions abroad) and available emergency response resources from IDA and other assistance funds as well as from transition initiative and development funds.[146] Moreover, OFDA and DART teams are on the ground at the onset of emergencies and regularly deploy in countries affected by conflict. According to the 2002 Esposito evaluation, USAID has also built up its conflict management and mitigation skills

[144] "Department of State Announces $10.5 Million Contribution to Address Migration-Related Challenges in Aftermath of Haiti Earthquake," Office of the Spokesman, Department of State, 29 April 2010. The funding will go to UNHCR, UNICEF and the Pan American Health Organization (PAHO).
[145] Interviews with government officials and NGOs, 2010; see also the USIP report, pp. 13-14.
[146] Esposito report, pp. 6-11.

as well as protection capacities enabling it to promote IDP physical safety while helping to reabsorb IDPs into the economic and political life of their countries and meet broader development goals.[147] Its offices—in particular DCHA, which includes OFDA, OTI, FFP and Conflict Management and Mitigation (CMM)—while not working exclusively with IDPs, are reported to consider vulnerable groups like IDPs a priority.[148] USAID's long term programs in Sudan and Ethiopia, Esposito found, suggested that the agency might be able to deal with "protracted" IDP situations.[149] Moreover, its development approaches, the evaluator hypothesized, suggested a capacity to address the needs of IDPs dispersed in rural areas or merged into urban communities. USAID's strength, the evaluator found, is its "ability and willingness to program diverse resources at the same time," enabling it to deal "with the various phases of population displacement and the changing assistance and protection needs of IDPs."[150] The fact that it works in most countries with conflict-induced displacement also showed that USAID is "well-placed" to serve IDPs "should it decide to expand its IDP-related activities."[151] The agency, a former senior official added, also has skills in reaching IDPs behind rebel lines by dealing with rebel movements and launching cross border operations, initiatives other parts of the US government are reticent to undertake.[152]

Nonetheless, questions have arisen about USAID's capacity owing at least in part to its history of political vulnerability. Over the past decade, USAID's funding and staff have been cut, resulting in heavy reliance on contractors and also "personal service" staff who lack permanence and the ability to rotate in the organization.[153] Its emergency response arm, OFDA, has 250 staff (mostly on personal service contracts with only 3 Foreign Service officers) and insufficient financial resources to deal with the increasing number of natural and human made disasters and efforts planned for disaster mitigation. While OFDA does have 111 staff in the field, it "does not have enough staff at headquarters to integrate the IDP policy into the rest of AID" or to raise the profile of the IDP issue through participation in panels and other "intellectual" advocacy.[154] OFDA's integration into DCHA, moreover, has reduced its clout and independence (it earlier reported directly to the USAID Administrator). Its capacity to address IDP situations, advocate for IDPs, and deal with longer-term displacement on a worldwide scale has therefore been questioned.[155]

---

[147] *Ibid.*
[148] *Ibid.,* p. 9.
[149] *Ibid.*
[150] *Ibid.*, p. 11.
[151] *Ibid.*
[152] Interview with former USAID official, 2010.
[153] Personal service contracts are for two years which are renewable.
[154] Interviews with USAID officials, 2010.
[155] Interviews with Congressional staff and former government officials, 2010.

Policy development has also faltered since USAID has lacked new leadership for a year. The USAID Administrator took office in January and almost all senior level positions remain vacant awaiting nomination and confirmation. Not surprisingly, the agency has been reported to suffer from a lack of "strategic vision" for IDPs. In addition, a "disconnect" exists between OFDA and the regional bureaus involved with development programs.[156] The country mission directors, who might be expected to step in after the emergency phase with programs to help IDPs reintegrate, often lack the resources, especially flexible funds, to do so, are committed to multi-year development plans, and often do not consider displacement a priority. While previous OFDA director Ky Luu made strenuous efforts to build IDPs and their recovery into country plans, InterAction in 2009 pointed out that US government attention to IDPs was still insufficiently comprehensive. "US refugee assistance," it noted, "spans the full life cycle of a crisis, from emergency relief to durable solutions" whereas "IDP and community-level assistance is far less comprehensive," and "funding levels are much lower even when needs are comparable."[157]

Another shortcoming frequently noted is that USAID "has no seat at the foreign policy table."[158] This of course will likely change with the Obama Administration's current efforts to strengthen USAID's role.[159] Nonetheless, the State Department, according to the *Foreign Affairs Manual*, provides "foreign policy guidance to AID in carrying out disaster relief activities,"[160] and under the Bush Administration, USAID was placed firmly under State Department policy and financial control.[161] In the view of Susan Rice (interviewed while at the Brookings Institution), it is the State Department and the NSC that must be brought in to make the difference in government decisions: "USAID can stop the hemorrhaging, but it cannot enlist the full force of the U.S. government in preventing displacement and addressing the political roots of the crisis."[162] She called for advocates at the NSC and the State Department to press senior policymakers to focus on resolving displacement issues.

[156] Interviews with former and current government officials and NGOs, 2010.
[157] InterAction statement, p. 2.
[158] Interviews with former and current government officials, 2009-2010.
[159] See Josh Rogin, "White House proposed taking development role away from State," *Foreign Policy*, 3 May 2010. Development is supposed to join defense and diplomacy as the three pillars of foreign policy.
[160] *Foreign Affairs Manual*, 2 FAM 066.1 and 2 FAM 066.3, State Department website http://www.state.gov/documents/organization/84372.pdf. The guidance or policy direction is to be given by State Department regional bureaus although OFDA is supposed to work with other offices in the Department as well (i.e., PRM).
[161] In 2008, the "F" process was introduced at the State Department, under which the USAID Administrator became the State Department's Director of Foreign Assistance in charge of planning and budgeting for both State and USAID and creating a unified framework for US assistance.
[162] USIP report, p. 13.

A number of experts and officials interviewed similarly mirrored the view that USAID must look to the State Department and NSC for diplomatic and political clout.[163] It was noted that as soon as Eric Schwartz became Assistant Secretary of State for PRM in 2009, he went off to Pakistan and then testified before the Senate Foreign Relations Committee on the needs of IDPs.[164] Again in Sri Lanka, it was State Department officials, including Assistant Secretary Schwartz, the US Ambassador to Sri Lanka and the US Ambassador to the UN, who expressed concern publicly about the situation in Sri Lanka, in particular the LTTE's holding Tamil IDPs hostage in the so-called safe zone and the government's refusal to give access to the IDPs allowed out of the zone and streaming into hospitals and camps.[165] In Iraq too, it was the PRM Assistant Secretary and the White House Coordinator for Iraqi refugees and IDPs who issued a joint statement with Iraq's government on refugees and IDPs.[166] USAID staff by contrast generally interface with development officials abroad, not with the political, military, humanitarian and human rights officials needed to address displacement in conflict situations. There have always been exceptions and a newly empowered USAID might pull more diplomatic weight in the future, but by and large, USAID Administrators have not taken on the public face of protection of IDPs.

Moreover, it has been noted that the decentralized non hierarchical nature of the agency makes it more difficult for it to carry out an overall policy,[167] and in particular "implement" the IDP policy. In 2005, Donald Steinberg found it difficult "to force [USAID] regional and functional bureaus ... to take seriously the plight of IDPs, including providing scarce financial and personnel resources for this issue."[168] In plans for FY 2011, however, a number of USAID country programs are reported to be involved with IDPs.[169]

Lately some in Congress have expressed concerns about USAID's growing national security mission and whether that is compatible with development aims or the impartiality and neutrality of humanitarian assistance for IDPs and other vulnerable populations.[170]

---

[163] Interviews with experts and government officials, 2009-2010.

[164] Of course, USAID at that point lacked a new Administrator, Assistant Administrator for DCHA and a head of OFDA.

[165] See "US calls Sri Lanka to provide support to IDPs," *Asian Tribune*, 24 April 2009.

[166] See Embassy of the United States in Iraq, Joint Statement on Iraqi Refugees and Internally Displaced Persons, Baghdad, 14 November 2009.

[167] USIP report, p. 14.

[168] USIP report, p. 14.

[169] Congressional Budget Justification for Foreign Operations FY 2011.

[170] See Senate Report 111-122 to accompany Foreign Assistance Revitalization and Accountability Act of 2009, S.1524 (introduced by Sen. John Kerry), 2 February 2010, p. 3. See also Jeffrey Gettleman, "U.S. Aids Somalia In Planned Drive To Take Capital," *New York Times*, 6 March 2010, which reports that "Washington is also using its heft as the biggest supplier of humanitarian aid to Somalia to encourage private aid agencies to move quickly into 'newly liberated areas' and deliver services like food and medicine to the beleaguered Somali people in an effort to make the government more popular." Of course, the politicization

A number of USAID staff have become embedded in US military operations, have been assigned to US regional military commands, and are in Provincial Reconstruction Teams —the joint DOD/State/USAID undertakings in Iraq and Afghanistan. "Can USAID participate effectively in counterinsurgency and stabilization operations while maintaining a credible humanitarian mission..?" asked a recent report of the Senate Foreign Relations Committee.[171]

Some NGOs would like to see "a clear US humanitarian lead" at the UN and have complained that its absence impedes effective oversight and influence over international decisions, particularly on IDP issues.[172] The IO Bureau of course is the principal interlocutor with the UN and consults with both USAID and PRM, both of which have been active when it comes to UN humanitarian reform. USAID has a representative at the US Mission in New York, at the US Mission in Geneva and also in Brussels and Rome (where WFP and FAO are headquartered) and has been particularly active in the development of the Good Humanitarian Donorship initiative. DCHA/OFDA staff also have regular consultations with senior UN humanitarian officials and Deputy Assistant Administrator Brause serves on the UN's CERF Advisory Board. As for PRM, the Refugee and Migration Affairs section of the US Mission in Geneva served as lead for US participation in the formulation of the UN's different "clusters" while PRM Assistant Secretaries regularly meet with the UN's Emergency Relief Coordinator and OCHA senior leadership to discuss UN performance in humanitarian crises as well as improving the performance of UN Resident/Humanitarian Coordinators (RC/HCs) who lead the country teams in emergencies. Overall relations with UNICEF and OHCHR are conducted by IO (the Bureau of Democracy, Human Rights and Labor—DHL is also involved with OHCHR). The IO Bureau and USUN also become involved in determining Security Council mandates for peacekeeping and peace building missions, which have the potential to improve protection for IDPs and other civilians. To pinpoint one humanitarian lead in all this, as called for by NGOs, would be difficult.

This is not to suggest that shifting the IDP lead to PRM would succeed in getting the entire US government's attention to preventing and resolving IDP situations. The PRM bureau is small (139 staff), has only limited field presence (28 refugee coordinators plus 54 local staff), and because of its own and UNHCR's mandate is often focused on refugees. Even the name of the bureau (Population, Migration and Refugees) suggests a preoccupation with a world past when refugees were the only population of concern. On the plus side, the bureau has high retention rates of dedicated and experienced staff, including Foreign

of humanitarian assistance programs is not limited to USAID.

[171] *Ibid.*

[172] InterAction statement, p. 3.

Service officers, consults regularly with US NGO partners, and has been successful in building bipartisan Congressional and public support for its work, whether for overseas assistance or domestic resettlement of refugees. It also has become increasingly and actively involved with IDPs in a number of key countries, and it monitors some of the UN "clusters" focused on IDPs (in particular protection). It has begun to encourage UNHCR to enlarge its protection activities for IDPs while its support for ICRC's protection role has been long standing. But its vision and limited field experience do not yet fully encompass the full range of IDP issues. PRM does not yet actively interact with all the agencies and players involved in the international cluster approach or with the UN or regional organizations' peacekeeping and peace building efforts. Nor has it yet engaged in a big way with efforts to prevent and resolve displacement and deal with early recovery. Assistant Secretary Schwartz is known to have a much broader vision and experience on humanitarian issues and has begun to take bold steps to bring the bureau into the 21st century, but the bureau will need more than one person, indeed it will need a critical mass of personnel to expand its focus and engage in much needed diplomatic advocacy on the wide range of IDP issues. The State Department is hardly inclined to put humanitarian issues at a high place on its crowded agenda; PRM will need to develop strong and well coordinated divisions of labor with USAID, State's regional bureaus and embassies, other government offices and NGOs for the US' humanitarian response to rise to the levels needed for prevention and resolution of displacement. It bears noting that when the Obama Administration sought to coordinate all the different parts of the US government in support of Iraqi refugees and IDPs, it turned not to PRM or USAID but to a NSC senior director.[173]

INSUFFICIENT CONGRESSIONAL ATTENTION TO US POLICY TOWARD IDPS

The Congress has supported generous humanitarian aid for the victims of natural and human made disasters (more than $4 billion in FY 2010), and has focused increasing attention on IDPs in particular countries. It also initiated the 2001 GAO report which examined how the international community and the US fell short in addressing internal displacement. However, it has not devoted much attention to what the components of US policy should be toward internal displacement and the extent to which the US or the international community should be better equipped at the institutional, legal, political and financial levels to deal with the problem. Nor has it examined the best mix of measures (e.g. preventive, assistance, protection, advocacy, conflict resolution, reintegration, develop-

[173] PRM's Assistant Secretary, however, did join the NSC Director in Iraq in 2009 where they both discussed with the government its need to increase support for IDPs and refugees, see Embassy of the United States in Iraq, Joint statement on Iraqi Refugees and Internally Displaced Persons, Baghdad, 14 November 2009.

ment, and international collaboration) to accomplish the goal of improving the lives of the displaced within the confines of taxpayer willingness to support such efforts.

The Congress has not evaluated the USAID IDP policy and its implementation. And it has been slow to promote the formulation of an overall humanitarian policy that would encompass IDPs and other vulnerable groups and clarify which US actors should be involved, which would play lead roles, what standards of assistance should be relied upon, and how to monitor and evaluate the results. Although an array of actors regularly participate in humanitarian response (USAID, the State Department, DOD, the Department of Agriculture, the Department of Homeland Security - DHS, etc.), fragmentation in US humanitarian programs has long been criticized, most recently in a SFRC report.[174]

In 2009, the HFAC and SFRC seriously began examining how to improve US foreign aid and humanitarian response. The House of Representatives adopted HR. 2410[175] which among other issues seeks to strengthen US representation at the UN, including in the humanitarian area, and develop a more comprehensive policy on Iraqi refugees and IDPs. But the Senate has not yet acted upon it; and the SFRC is now working on its own bills, one of which seeks to strengthen USAID.[176] Indeed, the SFRC report calls for the consolidation of all US humanitarian programs into one agency.[177] However, neither bill addresses the need for an overall humanitarian policy to improve clarity and transparency in US funding decisions, nor the imbalance in US assistance and advocacy between refugees and IDPs, or the need for more flexible funding mechanisms to assure rapid and sustained attention for IDPs and other vulnerable populations.

When it comes to the role of the military, the Congress has supported enlarging DOD's role in humanitarian assistance and development programs, increasing its share of overseas development assistance from 3.5 percent in 1998 to 22 percent in 2005 (while USAID's share dropped from 65 percent to 44 percent).[178] US commanders in the field have substantial authority and flexibility in making program and funding decisions on stabilization or humanitarian programs, but USAID officials do not have that same authority.[179] This

[174] The report urges the Obama Administration "to consider consolidating as many programs as feasible under the guidance and coordination of a single development agency." It calls for a review of development programs "that have migrated over" to DOD, PRM and the State Department Office for Stabilization and Reconstruction. See Senate Report 111-222, supra note 170, p. 4.

[175] House of Representatives, H.R. 2410, Authorization for the State Department and Peace Corps for FY 2010-11, which passed the House 10 June 2009.

[176] Senate, S. 1524, supra note 170.

[177] Senate Report 111-222, supra note 170.

[178] Refugees International, "US Civil Military Imbalance for Global Engagement," 2008, p. 7.

[179] See Refugees International, *Drawing on the Full Strength of America,* September 2009, p. 8. It notes the long lead time of humanitarian and development actors compared with the military.

has prompted expressions of concern from NGOs,[180] which fear the militarization of humanitarian aid while at the same time recognizing the military's essential role in massive disasters like the Haitian earthquake as well as its ability to get assistance into insecure areas in conflicts.

Although two members of Congress (from either the HFAC or SFRC) serve on the US delegation to the UN General Assembly each year, the Congress has not yet played an active role in encouraging stronger US diplomacy and initiatives at the UN on humanitarian reform, as suggested by NGOs, which have urged the US to "punch at its weight" at the UN.[181] H.R. 2410 adopted by the House does call upon the US to strengthen the staffing at US offices that interact with the UN and other international organizations and for the appointment of an Ambassador at Large for Multilateral Negotiations. But getting action will require agreement between the House and the Senate on relations with the UN and on international aid and development strategies.

Historically, the Congress has had great difficulty agreeing to the short term and long term goals of foreign assistance. For twenty-five years, it has been unable to reauthorize or modernize the Foreign Assistance Act of 1961, which contains a confusing array of mandates, priorities and outdated provisions, not to speak of limited consideration of the impact of IDPs on security and development in different countries. Over the past three years, numerous Congressional hearings have looked at reforming international aid and development, but these discussions have paid little attention to humanitarian issues. Humanitarian aid constitutes $4.2 billion in the proposed FY 2011 foreign operations assistance budget of $39.4 billion,[182] and is not effectively linked to development programs, even though the recovery and reintegration of millions of IDPs and refugees are essential to stability in post-conflict countries.

FUNDING SHORTFALLS

The Congress and most Administrations have been reluctant to fund adequately the diplomacy and development legs of US foreign policy while spending freely on the military leg. In FY 2010, the Defense Department's budget request was for $533.7 billion (not including supplemental requests for Iraq, Afghanistan and Pakistan), while civilian agen-

[180] InterAction statement, p. 4; and Rod Nordland, "U.N. Rejects 'Militarization' of Afghan Aid," *New York Times*, 18 February 2010.

[181] See InterAction letter to HFAC Chair, December 2009.

[182] Humanitarian aid generally refers to funds for PRM, OFDA, OTI and the Department of Agriculture's Food for Peace and Dole-McGovern programs. See FY 2011 Congressional Budget Justification for Foreign Operations http://www.state.gov/documents/organization/137936.pdf

cies requested $51.7 billion.[183] Indeed, foreign assistance and State Department operations amount to only 1.4 percent of the US budget.[184] Think tank and NGO studies have recommended substantial increases in staffing for the State Department and USAID so that they have enough officers to effectively handle diplomacy, public diplomacy, foreign assistance, stabilization and reconstruction.[185] USAID staffing, it bears repeating, has declined so substantially that many of its programs and operations rely on contractors.[186]

Within the confines of limited funds, IDP programs as noted earlier, receive more funds than they did in the past, but the disparities in funding between refugee and IDP programs continue unabated. In FY 2009, PRM had double the funding of USAID/OFDA ($1.8 billion vs. $820 million) despite OFDA's role as the lead on IDPs. Not only NGOs but US government staff have expressed concerns about the different levels and types of assistance provided to refugees and IDPs. USAID officials questioned "the different packets of aid" provided to refugee and IDPs in the same country.[187] In a meeting with NGOs in 2008, PRM staff also raised the need for a consistent approach in dealing with IDP and refugee populations so that the US would be a reliable partner in responding to displacement situations.[188] But last year again, InterAction drew attention to "the large differences between U.S. economic assistance to refugees versus that provided to internally displaced persons (IDPs) and conflict affected communities despite their similar needs."[189] One area of disparity frequently identified is education: PRM funds education activities for refugees whereas OFDA generally does not do so for IDPs. Overall funding levels "are much lower" for IDPs "even when needs are comparable."[190] NGOs have sometimes drawn up charts to demonstrate the disparities. In 2006, for example, an NGO representative calculated that the funds spent on refugees in different African countries on a per capita basis far exceeded that spent on IDPs. For example, in the Darfur area, the NGO calculated that the amount spent on refugees totaled three times more per capita than that spent on IDPs. In Burundi, where OFDA spent $2.49 million on 116,000 IDPs, the per capita rate was $21 for an

[183] These included requests from the State Department, USAID, Millennium Challenge account, Export-Import Bank, Overseas Private Investment Corporation, US Trade and Development Agency, Peace Corps, security assistance and economic support funds, assessed and voluntary contributions, etc., see Refugees International, *Drawing on the Full Strength of America*, supra note 179, p. 5.
[184] *Ibid.*
[185] In particular, they have asked for a doubling in the number of Foreign Service Officers and a 150 percent increase in USAID staff to give the US a real 'civilian surge capacity,' see *Ibid.* p. 3-4, quoting American Academy of Diplomacy and Henry L. Stimson Center, October 2008.
[186] Testimony of Steve Radelet before Senate Foreign Relations Committee, 1 April 2009, at http://www.cgdev.org/doc/Opinions/Radelet_04-01-09.pdf
[187] Interview with USAID officials, 2010.
[188] Meeting with government officials, 2008.
[189] InterAction statement, p. 2.
[190] *Ibid.*, p. 3.

IDP whereas the per capita rate for a refugee was $127 since PRM spent $2.6 million on 20,618 refugees.[191]

NGOs have been in the forefront of urging increased humanitarian aid for OFDA, particularly for humanitarian programs for IDPs and other victims of conflict and disaster. InterAction told Congress that OFDA's IDA account needed an additional $308 million above the President's request (or a total of $1.128 billion) in FY 2010 to cover disaster response and ongoing humanitarian programs. It also called for a $700 million increase in PRM's funding for the needs of war affected populations and protracted refugee and internal displacement situations.[192] This was based on UNHCR's new global needs assessment, which increased its 2010 budget appeal to over $3 billion, including $654 million for IDPs.[193]

Congress did increase PRM funds by $381 million but provided less funding for OFDA and OTI than the President requested. Nonetheless, InterAction is advocating that OFDA's funding be doubled to $1.66 billion in FY2011 as well as a $780 million increase for PRM's budget (raising it to $2.31 billion) plus a $155 million increase for ERMA.[194] However, the US' continuing economic problems, high unemployment and rising deficits suggest these totals may be difficult to reach.

LACK OF ATTENTION TO EARLY RECOVERY AND REINTEGRATION

Between half and three-quarters of all major IDP situations are protracted, that is, they last 5 years or more, whether in camps or in urban centers.[195] In Darfur, more than 2 million IDPs have been in camps since 2003-4. In the Balkans, displaced people, especially elderly, disabled and minority members can still be found living in collective centers even though the conflict has been over for more than ten years.[196] In the 'frozen' conflicts in the South

[191] Interview with NGO representatives, 2009 and 2010. The 2006 figures are used, according to the NGOs, because thereafter the State Department took over the reporting and the IDP breakdowns became less clear.

[192] InterAction members have urged Congress to increase humanitarian aid over the President's request for FY 2010 to $1.3 billion and poverty focused assistance by $2.9 billion, see http://www.interaction.org/document/2010-detailed-budget-statement-may-7-2009

[193] *UNHCR Global Appeal 2010–2011*, pp. 44 and 57.

[194] InterAction Federal Budget Table FY11 Budget Request, at www//interaction.org/document/2011 budget-table

[195] Elizabeth Ferris, "Durable solutions for IDPs in protracted situations," Background paper prepared for the Expert Seminar on Protracted IDP Situations, UNHCR–Brookings–Bern Project on Internal Displacement, Geneva, 21–22 June 2007, at http://www3.brookings.edu/fp/projects/idp/conferences/20070622.pdf, p. 25

[196] UN Economic and Social Council, "Specific groups and individuals: mass exoduses and displaced persons," Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Per-

Caucasus, such as in Azerbaijan, Kälin found IDPs still living "in tent camps, railway wagons, and mud brick houses after more than a decade," and in urban areas most IDPs were in "run down, overcrowded dormitories or public buildings, including former schools."[197] Although many of the displaced may no longer face immediate threats to their security, their economic and social needs often fail to be met and they are left without employment, land, property restitution, permanent shelter or access to training and education.

Primary responsibility for internally displaced persons of course rests with their governments, but it is often the case that their governments do not have the capacity or willingness to help them achieve durable solutions while the aid provided by the US and other donors often tapers off when conflicts subside, even though areas of return may not be stable or able to sustain returning IDPs or refugees.[198] The gap between humanitarian emergency aid, early recovery and development aid remains too wide, finds RSG Kälin. "The international system works well in the emergency phase, but does not work well thereafter." [199] Some IDPs might even be "worse off" five years after the emergency than they were during the emergency when they received assistance, he said.[200] Development interventions that take 18 months to plan are far too long for IDPs in urgent need of access to livelihoods, food security, health, water, sanitation, adequate shelter and education for their children. Yet field missions regularly report that "early recovery" activities are still missing in most post conflict situations.[201] Resources are generally insufficient for post-conflict needs, which often are not viewed as priority humanitarian or development concerns.

The early recovery gap is reflected in the US response to humanitarian emergencies, where it has proved difficult to transition from OFDA's emergency programs to address the recovery and reintegration needs of IDPs in USAID's country programs. The early recovery gap is also reflected on the development side. With few exceptions USAID has not requested funds for Congress for this purpose while OFDA's multiple responsibilities in disasters and complex emergencies have limited its ability to continue humanitarian assistance in

sons, Walter Kälin, Mission to Bosnia and Herzegovina, E/CN.4/2006/71/Add.4, 29 Dec. 2005, p. 12; and UN Economic and Social Council, 'Specific groups and individuals: mass exoduses and displaced persons,' Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, Mission to Serbia and Montenegro, E/CN.4/2006/71/Add.5, 9 January 2006, p. 2.

[197] UN General Assembly, "Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development," Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, Mission to Azerbaijan, A/HRC/8/6/Add.2, 15 April 2008, p. 13.

[198] See UN Human Rights Council, Report of the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, A/HRC/13/21, 5 January 2010, para. 62.

[199] Interview with Walter Kälin, Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, 9 January 2010.

[200] *Ibid.*

[201] Refugees International field reports 2007-2009.

protracted situations. For this year, the Congress instituted a new $50 million Complex Crisis Fund (CCF) for USAID to cover a broad range of humanitarian and stabilization situations, but its future is not certain.

INADEQUATE OVERSIGHT OF INTERNATIONAL INSTITUTIONAL ARRANGEMENTS

As earlier noted, the UN cluster approach, adopted in 2005 as part of UN Humanitarian Reform, has improved coordination among UN agencies protecting and assisting IDPs and has made the UN emergency response more predictable. Its assignment of lead protection responsibility to UNHCR has also substantially expanded protection coverage in IDP situations, including in some protracted cases.[202] In fact, as of 2010, UNHCR reported it was assisting and protecting some 16 million IDPs, more than the total number of refugees of concern to the organization.[203] In 2010, it will be leading or co-leading the protection cluster in 21 different countries, 3 of which are natural disaster emergencies.

Nonetheless, the extent to which the "cluster approach" has actually improved conditions on the ground for affected populations is not so clear.[204] A number of problems have been reported, including too many meetings that divert attention from actually helping people, weak leadership, too much bureaucratization and interference by OCHA, lack of adequate involvement of NGOs, particularly local ones, little input from beneficiaries, and slowness in getting the clusters going. In the case of the protection cluster, many of the cluster members do not have expert protection skills with uprooted populations (eg. OHCHR, UNICEF, IOM—which also doesn't have a protection mandate), while resource and mandate constraints have affected the ability of UNHCR to assume a truly robust leading role. Attitudinal issues have also interfered. Fearing that too much attention to IDPs would detract from refugee protection and also undermine the right to asylum, UNHCR has implemented its lead role slowly and sometimes reluctantly. The agency has developed policies on IDPs and contributed to tools like the IDP Protection Handbook,[205]

[202] See UN Inter-Agency Standing Committee, "Cluster approach evaluation report," 21 November 2007; Jeff Crisp et al, "UNHCR, IDPs and humanitarian reform," *Forced Migration Review*, December 2007, pp. 12-14; and interview of authors with UN staff, 2009.

[203] UNHCR Global Appeal 2010-2011, supra note 21.

[204] See IDMC, *Internal Displacement: Global Overview of Trends and Developments in 2008*, pp. 32-3; and UNHCR, Executive Committee of the High Commissioner's Programme, "Progress on mainstreaming IDP issues in UNHCR and global work plan for IDP operations," EC/59/SC/CRP.16, 2 June 2008. See also "Synthesis Report: Review of the Engagement of NGOs with the Humanitarian Reform Process," ICVA, October 2009, at www.icva.ch/doc00003933.pdf

[205] UN Global Protection Cluster Working Group, *Handbook for the Protection of Internally Displaced Persons*, Geneva, December 2007.

but it has not yet built up *adequate in-house protection capacity* for IDPs in the field and has been hampered by a hiring freeze for several years (even for protection staff). Instead it relies on the external protection officers provided by ProCap—a UN/ non-governmental organization initiative (whose operations may end soon)—or on its own refugee protection officers, who are stretched thin. Nor has UNHCR yet created a set of full-time dedicated IDP staff at headquarters, in particular in the Executive Office and in the Division of International Protection to advocate for IDPs, do cutting edge research and policy planning on IDPs, and oversee the 'mainstreaming' of IDP protection and solutions into overall organizational operations.[206] IDPs are still funded separately from refugees, at far lower amounts than for refugees, and their protection, assistance, and reintegration needs are still too often treated as "add-ons."[207]As one senior US official commented, "UNHCR has a sense of responsibility for every refugee in the world," but when it comes to IDPs, its attitude is, "we'll handle what we can handle."[208]

Part of the problem lies with donor countries, including the US, whose attitude toward UNHCR's involvement with IDPs has until recently been described as "bipolar."[209] Whereas some in PRM have supported UNHCR's greater role with IDPs, others in the same bureau have been more cautious. In 2002, for example, prior to the cluster approach, the US withdrew support from a UNHCR program to protect and assist hundreds of thousands of IDPs in Angola on the grounds that UNHCR should leave the protection of IDPs to other agencies and concentrate on refugees, whose overall programs were suffering from budget reductions.[210] That same attitude resurfaced later in the Ivory Coast and Darfur (as noted above). To be sure, PRM has become more supportive of UNHCR's role with IDPs. The US position paper on UN humanitarian reform in 2006 expressed support for "improved predictability and accountability" to IDP situations and the need for additional funding. But it also emphasized that "it is vital that these attempts to fill gaps not divert attention or detract resources from *agencies' core mandates and programs*" [emphasis added].[211] Since core mandates do not often include IDPs (especially at UNHCR, where until 2010 IDPs were not a part of the core budget),[212] the message was a mixed one. At the same time, in 2009

[206] Interviews with UN field and headquarters staff, October 2008; at a meeting in Oslo in 2008 to commemorate the tenth anniversary of the Guiding Principles on Internal Displacement, the High Commissioner promised that an IDP staff person would be placed in the Executive Office, but this did not transpire.

[207] See Global Strategic Priorities for 2010-2011, at http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=4b03cc249&query=global strategic priorities

[208] Interview with government official, 2010.

[209] Interview with government official, 2009.

[210] See Cohen, "Weakened U.S. Support," supra note 44.

[211] US Government Position on UN Humanitarian Reform, January 2006 (sent as a cable to embassies in countries where the cluster system was being introduced to explain the USG position; the document was also shared with other donors).

[212] Core mandates arise from the statute of organizations or from legal conventions; IDPs may not be specified in these mandates, as is the case with UNHCR.

at UNHCR's Executive Committee (EXCOM), Assistant Secretary Schwartz expressed strong support for UNHCR's involvement with IDPs.[213]

The early recovery "cluster"[214] led by UNDP to assure an effective transition between emergency action and recovery activities has often faltered for lack of donor support (in part because early recovery aid often falls between the cracks of separate humanitarian and development accounts). In Uganda and other countries, the RSG found "a gap" between the phasing out by humanitarian actors and the arrival of development actors.[215] He cited the lack of flexible funding mechanisms on the part of donors as a factor contributing to the problem.

Nor do some experts feel that the US has "punched its weight" in the UN humanitarian policymaking process. The US provides 25 to 30 per cent of UNHCR's overall budget (and an American is Deputy High Commissioner)[216], but it has not always exercised sufficient oversight to ensure that the UN refugee agency fulfills its promised obligations to IDPs under the cluster approach; it also has not come in strongly to ensure the success of the early recovery cluster.

When it comes to the CERF whose creation for sudden and neglected emergencies the US supported, it has contributed only $25 million since the fund's inception in 2006 in contrast to $364.9 million contributed by the UK during the same period.[217] Among US concerns about the fund have been the lack of direct access for NGOs (the funds go through UN agencies), the lack of transparency in the way "neglected" emergencies are chosen, and the slowness with which funds are disbursed.[218] The US pledge of $10 million for 2010 clearly signals faint support for a multilateral emergency response fund whose decisions are not subject to US pressure and influence. The OECD DAC report for 2006 urged the US to put more of its aid into multilateral efforts and to increase its dialogue and interaction with other donors.[219]

---

[213] US Statement to 60th Session of UNHCR Executive Committee, 29 September 2009.

[214] The IASC Cluster Working Group on Early Recovery defines early recovery as "the application of development principles of participation, sustainability and local ownership to humanitarian situations, with the aim of stabilizing local and national capacities." Humanitarian Policy Group Working Paper, November 2009, p. 5.

[215] UN Human Rights Council, Report of the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, supra note 99, para. 62, note 32.

[216] The head of WFP and IOM are also Americans.

[217] CERF Donor Table 2005-2010, at http://ochaonline.un.org/cerf/Donors/Donors/tabid/5370/language/en-US/Default.aspx

[218] "US Government Position on UN Humanitarian Reforms," January 2006. The main recipients of CERF funding in 2008 were the DRC, Ethiopia, Myanmar, Kenya, Pakistan and Afghanistan.

[219] United States, DAC Peer Review: Main Findings and Recommendations, 2006, p.3, at http://www.oecd.org/document/27/0,3343,en_2649_34603_37829787_1_1_1_1,00.html

INSUFFICIENT ATTENTION TO IDP PROTECTION BY UN PEACEKEEPERS

Since the late 1990s, international peacekeepers have increasingly been authorized by the UN to protect internally displaced and other war-affected populations under imminent threat in internal conflict situations.[220] They have been asked to establish and maintain secure humanitarian areas, facilitate the delivery of relief, ensure protection in camps, and enable the safe return home of IDPs and refugees.[221] Such actions have enhanced security for displaced populations in a number of locations,[222] but in many others, protection has been neglected because peacekeeping missions have not been backed up with sufficient resources to enable them to do their jobs. Missions are often thwarted by insufficient numbers of troops and police, equipment (including ground transport and airlift), intelligence capacities, training in how to protect civilians, clear mandates, and rules of engagement that are understood and agreed to by troop contributing countries as well as by the officers and peacekeepers in the field. Nor do many peacekeeping missions have confidence that their actions to defend civilians will be backed up by political support from the UN.[223]

Although it is ten years since the 'Brahimi report,'[224] two new reports on UN peacekeeping suggest that the Secretary-General and senior UN officials still are not being frank enough in discussing with Security Council members and troop contributing countries the potential problems and security risks facing these missions and the significant resources and

[220] See for example Security Council Resolution 1590 on the UN Mission in Sudan, 24 March 2005, which calls upon UNMIS to "protect civilians under imminent threat of physical violence."

[221] Security Council resolutions on the Balkans, the DRC, Haiti, Iraq, Liberia, Rwanda, Sierra Leone and Timor Leste have specifically tasked peacekeepers with providing assistance or protection to IDPs. See William G. O'Neill, *A New Challenge for Peacekeepers; The Internally Displaced*, Brookings-SAIS Project on Internal Displacement, April 2004.

[222] Some UN commanders for example have proved adept at developing civilian protection measures – foot and vehicle patrols to deter attacks in camps or villages or when women are collecting firewood. They have established bases near communities considered likely to be attacked and have developed joint civilian and military protection teams that work with local residents. See O'Neill, *ibid.,* pp. 6-7, 8-9, 24-39; and William G. O'Neil and Violette Cassis, *Protecting Two Million Internally Displaced: The Successes and Shortcomings of the African Union in Darfur*, Brookings-Bern Project on Internal Displacement, November 2005.

[223] See Victoria Holt and Kelly Taylor, *Protecting Civilians in the Context of UN Peacekeeping Operations: Success, Setbacks and Remaining Challenges. OCHA/DPKO Jointly Commissioned Study,* November 2009; see also Refugees International, *Last Line of Defense: How Peacekeeping Missions Can Better Protect Civilians*, February 2010.

[224] Report of the Panel on UN Peace Operations, *www.un.org/peace/reports/peace_operations.* The Brahimi report, named for the panel chair, Lakhdar Brahimi, proposed a more effective early warning system to detect genocide and other conflicts, more robust preventive diplomacy, and steps to ensure the rapid and effective deployment of military and police forces when intervention is required. In particular, it cited the need for more civilian experts – in human rights monitoring, police training, judicial reform, media relations, and economic reconstruction.

risks required to make the protection of civilians possible.[225] In many cases, protection of civilians is given a low priority in the overall peacekeeping mission. In the case of the UN Mission in Sudan (UNMIS), Refugees International points out:

> "UNMIS monitors an area larger than the size of Texas with just 10,000 troops, roughly 1 soldier for every 32 square miles. The Security Council, senior mission leadership, troop contributing countries, and commanders on the ground, never saw protection of civilians as a priority of the mission. As a result, the mission was never given the equipment or troops necessary to effectively protect civilians from violence ….It was an afterthought in a mandate that had been built entirely around long-term stabilization and peacebuilding activities."[226]

UNMIS in 2008 was unable to prevent the town of Abyei from being destroyed, or the forced displacement of tens of thousands of Sudanese, many of whom had earlier returned to Abyei, believing that UNMIS would protect them.[227] In Darfur, the ongoing failure of the understaffed and under equipped AU-UN force (UNAMID) to protect IDP populations has caused disillusionment and hostility. The deployment of peacekeepers after all raises expectations of improved security among IDPs, refugees and other war affected populations. When they do not receive the promised protection, the purpose and credibility of the entire peacekeeping mission is undermined.

A major reason remains the UN's difficulty in attracting contributions of troops and police from its Member States. Although civilian police contingents are particularly important to IDP protection, including during return or resettlement, developed countries, including the US, contribute only small numbers of police or troops. In fact, the former UN Under-Secretary-General for Peacekeeping Operations, Jean-Marie Guehenno, felt the need to remind Member States that "the provision of well-equipped, well-trained and disciplined military and police personnel to UN peacekeeping operations is a *collective responsibility* of Member States [emphasis added]. Countries from the South should not and must not be expected to shoulder this burden alone."[228] About 4.5 percent of the troops and civilian police deployed in UN peacekeeping missions come from the European Union and less than one percent from the United States.[229] One of the most well known examples of the failure of developed countries to provide the equipment needed for a peacekeeping operation

[225] See Holt and Taylor and Refugees International, supra note 223.
[226] Erin Weir, Refugees International blog, 1 February 2010. http://www.refintl.org/blog/southern-sudan-trouble-unmis; see also Holt and Taylor, *ibid*.
[227] Refugees International, *Last Line of Defense*, p. 15.
[228] http://en.wikipedia.org/wiki/peacekeeping
[229] http://www.un.org/en/peacekeeping/documents/factsheet.pdf

was in Darfur, where the US and other Western countries did not provide helicopters for UNAMID, despite UN appeals for several years.[230]

The UN has also faced difficulties in getting governments to hold peacekeepers accountable when they fail to protect civilians or when they mistreat and engage in sexual abuse of those they are charged with protecting. Although the UN has a "zero tolerance" policy for those who commit crimes, and has moved against identified perpetrators and sought funds to provide restitution to those injured, the Secretariat's implementation of discipline is often weak and sometimes it is undercut. In the DRC, the Security Council authorized the UN Mission MONUC to work with and bolster government troops, despite the fact that government troops were responsible for much of the violence and sexual abuse directed toward displaced persons and other civilians.[231]

FAILURE TO ACKNOWLEDGE IDP PROBLEMS AT HOME

When Hurricane Katrina struck the Gulf Coast in 2005 and uprooted close to one million people, US government officials and the press described those displaced as "refugees" as if they were foreigners,[232] or "evacuees," and then "disaster victims" and "displaced evacuees." Clearly government officials, especially those working in the domestic area, were unaware of the term 'internally displaced person' or reluctant to use it even though US delegates at the United Nations regularly voted for and even co-sponsored resolutions on IDPs, and USAID in 2004 promulgated a policy on IDPs.

Even those in the foreign affairs arena who were well aware of IDP terminology did not seem to want to acknowledge that there were displaced persons in the US. They preferred to think of IDPs as people uprooted by *conflict* overseas. The intercessions of the RSG were not well received especially when he raised the importance of observing UN standards applicable to IDPs. One US government official privately found the US response to Kälin "defensive and dismissive." [233]

[230] IRIN, "Helicopters top list of 'shameful' missing equipment," 31 July 2008; and UN News Centre, "Joint AU-UN force in Darfur still lacking crucial equipment, Ban says," 5 May 2010.

[231] See A.W. Gambino, *Congo Securing Peace, Sustaining Progress*, Council on Foreign Relations, Center for Preventive Action, Special report No. 40, 2008, pp. 4, 7.

[232] "We're Americans, we're not Refugees," *News VOA.com*, 31 September 2005. See also Roberta Cohen, "Human Rights at Home," Statement at Harvard University Kennedy School of Government, 1 November 2006, at http://www.brookings.edu/speeches/2006/1101humanrights_cohen.aspx. In 2008, US officials referred to the IDPs in Houston and Atlanta as "displaced evacuees," see Cain Burdeau, "UN official compares Katrina displaced and those in other nations," Associated Press, 16 January 2008.

[233] Interview of authors with US government official, 2009.

Nor were US government officials responsive to applying the Guiding Principles on Internal Displacement at home as a checklist for protecting and assisting people, even though American organizations dedicated to assisting those uprooted by Hurricane Katrina underlined the importance of the Principles in this case.[234] The US even complained to the UN Secretary-General after Kälin's 2008 visit to the Gulf area where he promoted usage of the Guiding Principles. Further, the US did not welcome offers of aid from foreign governments because the US prided itself "on being the…wealthiest and most technologically advanced" of nations and did not consider aid from abroad necessary.[235]

In its latest draft National Disaster Recovery Framework, FEMA makes no mention of the Guiding Principles, although it does speak of "displaced persons."[236] Local NGOs and the Brookings-Bern Project on Internal Displacement have urged FEMA to include reference to the Guiding Principles in the Framework, pointing out that "Those displaced by natural disasters, whether hurricanes or wildfires, are internally displaced persons and thus these Principles offer guidance to those responsible for protecting and assisting them."[237] The Principles, they note, emphasize the importance of non-discrimination in aid provision, consultation with displaced persons, and other important human rights provisions that should be integrated into FEMA's framework.[238] FEMA's involvement in Haiti in 2010 is yet another reason why the agency should incorporate these principles into its policy and programs.

The slow performance by the US in dealing with the victims of Hurricane Katrina, it should be noted, affected not only IDPs in the US but had impact on how other governments treat IDPs in their countries. For example, a Sri Lankan senior official in 2005 publicly defended his own government's slow response to the needs of IDPs uprooted by the tsunami by pointing to the US' failings in responding to the victims of Katrina.[239] Because the US is often considered a model worldwide, how it addresses displacement at home can influence governments abroad.

---

[234] See Chris Kromm and Sue Sturgis, "Hurricane Katrina and the Guiding Principles on Internal Displacement," Institute for Southern Studies, January 2008. See also Roberta Cohen, "Time for the United States to Honor International Standards in Emergencies," Brookings Institution, September 2009.

[235] Anne Richard, *Role Reversal: Offers of Help from Other Countries in Response to Hurricane Katrina*, Center for Transatlantic Relations, 2006, p. 42.

[236] FEMA, National Disaster Recovery Framework, 5 February 2010, at http://www.fema.gov/pdf/recoveryframework/omb_ndrf.pdf

[237] See Brookings-Bern Project on Internal Displacement, Comments on FEMA's National Disaster Recovery Framework, at http://www.brookings.edu/opinions/2010/0226_natural_disasters.aspx

[238] *Ibid*.

[239] Sri Lanka National Commission on Human Rights/United Nations/Brookings Institution Seminar held in Colombo, Sri Lanka, 26 October 2005.

AMBIVALENCE TOWARD THE GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

The 1998 Guiding Principles offer a valuable framework for addressing the rights and needs of displaced people in all phases of displacement, from prevention through recovery. In 1998, the United States welcomed their completion in a statement before the UN Commission on Human Rights.[240] It also voted for and co-sponsored resolutions in support of the Principles at the General Assembly, Commission on Human Rights and later the Human Rights Council and it endorsed the World Summit Outcome document which describes the Principles as "an important international framework for the protection of IDPs."[241] USAID's policy on IDPs further states that the Principles "offer a useful tool and framework for dealing with IDPs" and promises that the US "will encourage its partners and host governments to use them as a practical reference."[242]

Yet the US has also exhibited ambivalence toward the Principles. A footnote to the USAID policy states that "the United States does not accept the UN Guiding Principles as an expression of governing international law."[243] The footnote was added in deference to lawyers in the Bush Administration who considered it important to emphasize that the Principles were not a binding instrument under which the US had obligations. The same lawyers also qualified the US commitment to "international humanitarian law [IHL]." [244] While the USAID policy considers IHL to be a "guide" to its "engagement with IDPs during armed conflicts," a footnote was added to say that this commitment "applies where the United States has ratified the treaties or conventions in question or otherwise has accepted these principles as reflecting customary international law."[245] Government lawyers wanted to make sure that the US would not be bound by provisions in the two additional Protocols to the Geneva Conventions, which the US has not ratified.[246] The Principles, of course, are based in good measure on IHL, although as guidelines they do not claim to be binding international law. At the same time, the RSG recently reported some indications that the

[240] Roberta Cohen, US Delegation to the UN Commission on Human Rights, Statement on the Internally Displaced, 6 April 1998.
[241] UN General Assembly, World Summit Outcome 2005, supra note 15.
[242] *USAID IDP Policy,* p. 6.
[243] *Ibid.*
[244] Interviews of authors with US government officials, 2004, 2009.
[245] The Fourth Convention on non-international armed conflict, most pertinent to IDPs, has not been ratified by the US. After the IDP Policy says that "Principles and rules of international humanitarian law will guide USAID's engagement with IDPs during armed conflicts," it qualifies this with the phrase, "This applies where the United States has ratified the treaties or conventions in question or otherwise has accepted these principles as reflecting customary international law."
[246] Protocols I and II to the Geneva Conventions of 12 August 1949 relate to the Protection of Victims of International Armed Conflicts and to the Protection of Victims of Non-International Armed Conflicts, 8 June 1977.

Principles are emerging as customary law "providing a binding interpretation of the international legal norms upon which they are based."[247]

At the local level, resistance has also been reported to the use of the Guiding Principles. Local NGOs report that at the time of Hurricane Katrina, local authorities rejected "United Nations principles" out of a negative attitude toward international standards.[248] Indeed, local authorities reportedly expressed discomfort with a "rights-based approach," presumably out of fear that disaster victims might sue the government for failing to address their rights.[249] It also should be noted that the US has not ratified the International Covenant on Economic, Social and Cultural Rights and does not consider food and health care as "rights" to which people are entitled.[250] Although the US is prepared to generously assist IDPs in its own country and abroad, it does not want to feel legally "obliged" to do so.[251]

STATE DEPARTMENT HUMAN RIGHTS REPORTS NEED IMPROVEMENT

The human rights reports have come a long way in describing internal displacement in particular countries and how governments address the problem. The Sudan 2008 report well integrates displacement into all relevant sections of the report (although it falls short in other respects – see below) while the 2008 Colombia report provides a cogent analysis of forced displacement, its causes, and how ineffectively it is addressed.[252] The Zimbabwe report also gives a clear picture of displacement, its causes and overall IDP trends.[253] Other reports, however, do not rise to these standards. The 2008 report on Pakistan, for example, provides a sketchy picture of internal displacement, basically giving numbers and a few

[247] UN Human Rights Council, Report of the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, supra note 99, para. 11. The report notes that The National Policy on Displacement of Iraq declares that the Guiding Principles have become "part of international law." See Iraq National Policy on Displacement (July 2008), section 5, para. 3. The government of Germany has taken the position that the Guiding Principles "can by now be considered to be international customary law," see *Achter Bericht der Bundesregierung über ihre Menschenrechtspolitik in den auswärtigen Beziehungen und in anderen Politikbereichen*, p. 150.

[248] Interview with Advocates for Environmental Human Rights, 24 September 2009.

[249] *Ibid.*

[250] When the health care bill was adopted by the House of Representatives on March 21, 2010, the Speaker of the House Nancy Pelosi publicly stated that health care was now a "right," not a privilege.

[251] Interview with US government official, 2009.

[252] See Department of State, "2008 Human Rights Report: Colombia," *2008 Country Reports on Human Rights Practices*, section on "Internally Displaced Persons," 25 February 2009.

[253] See Department of State, "2008 Human Rights Report: Zimbabwe," *2008 Country Reports on Human Rights Practices*, section on "Internally Displaced Persons," 25 February 2009.

facts and omitting the protection problems IDPs face and the violations of their rights.[254] The 2008 report on Somalia is likewise a minimalist account without analysis.[255]

Government responsibility to protect and assist IDPs and provide them with durable solutions is not highlighted as effectively as it might be, in line with the benchmarks of "national responsibility" presented to the UN by the RSG.[256] While some reports, like the 2008 report on Turkey,[257] provide information on policies or laws adopted by the government to deal with displacement, others do not reference such policies and laws and the capacity and willingness of the government to carry them out. In the 2008 Iraq report, that government's frequent reticence to provide sufficient funds of its own for IDPs or to implement its national policy on IDPs is largely overlooked.[258]

Drafters of some of the reports do not seem aware of existing frameworks that provide guidance on how to evaluate a government's response to IDPs. For instance, the Guiding Principles on Internal Displacement set forth the full range of economic, social and civil and political rights the displaced should enjoy based on international human rights and humanitarian law. The Framework for National Responsibility provides criteria for evaluating government performance,[259] in particular:

- preventive steps, such as early-warning and rapid response mechanisms to protect populations under threat;
- campaigns to counteract the ethnic, racial and ideological stigmas to which IDPs are often subject;
- the adoption of national laws and policies to uphold the rights of the displaced;
- the designation of government offices to carry out the laws and policies;

[254] See Department of State, "2008 Human Rights Report: Pakistan," *2008 Country Reports on Human Rights Practices*, section on "Internally Displaced Persons," 25 February 2009.
[255] See Department of State, "2008 Human Rights Report: Somalia," *2008 Country Reports on Human Rights Practices*, section on "Internally Displaced Persons," 25 February 2009.
[256] See Brookings-Bern Project on Internal Displacement, *Addressing Internal Displacement: A Framework for National Responsibility*, April 2005, available at http://www.brookings.edu/projects/idp/20050401_nrframework.aspx
[257] Department of State, "2008 Human Rights Report: Turkey," *2008 Country Reports on Human Rights Practices*, 25 February 2009.
[258] Department of State, "2008 Human Rights Report: Iraq," *2008 Country Reports on Human Rights Practices*, 25 February 2009.
[259] *Ibid.*

- the allocation of adequate national resources;
- the finding of solutions for the displaced that include safe and sustainable returns, integration where they currently reside or relocation in another part of the country;
- assistance with property restitution or compensation and the establishment of mechanisms to settle disputes; and
- the introduction of reconciliation measures to bring rival ethnic groups together.

In a number of the reports, forced displacement is not viewed as the grave violation of human rights it often is. Under the Rome Statute of the International Criminal Court, forced displacement in certain circumstances is considered an international crime.[260] Yet the 2008 Sudan report puts forced displacement in Darfur under headings of "arbitrary interference with privacy, family, home or correspondence" or "excessive use of force." That forced displacement might be a war crime or crime against humanity is not mentioned. The 2008 Burma report which does exhibit a good understanding of the gravity of forced displacement also subsumes that information under the section on "arbitrary interference with privacy, family, home or correspondence," a place where no one would look for a discussion of forced displacement.

No section in the report covers genocide, war crimes, crimes against humanity, and ethnic cleansing. Yet the US and 191 other states adopted a collective responsibility to protect (R2P) in 2005 against those four crimes,[261] and IDPs often disproportionately suffer from such criminal acts.

Because the US does not acknowledge economic and social rights as a part of human rights or the human rights reports, lack of access to food, medical care and shelter that so many IDPs suffer are not presented as clear violations of their rights, in particular the most essential right of all, the right to life. Thus the 2008 Sudan report fails to flag the government's obstruction of humanitarian aid as something urgent and life threatening to millions of people. It is subsumed under headings such as "other" conflict related abuses

[260] The Rome Statute of the International Criminal Court, 17 July 1998, Art. 8 (2)(e)(viii). Deportations and forcible transfer of populations are listed as war crimes and crimes against humanity and are defined as the "*forced displacement* of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law [emphasis added]."

[261] UN General Assembly, World Summit Outcome 2005, supra note 15. 192 states agreed to the concept of R2P, which says that states have the primary responsibility to protect their own populations from genocide, war crimes, ethnic cleansing and crimes against humanity but if states fail in that obligation, there is an international responsibility to take "collective action" to protect populations threatened with these crimes.

or the totally inappropriate section, "governmental attitudes regarding international and nongovernmental investigation of allegations of violations of human rights." Humanitarian organizations in Darfur after all are not engaged in investigating human rights violations but in providing life sustaining food, medicine and shelter to IDPs. Similarly, the 2008 Burma report places humanitarian aid to the victims of Cyclone Nargis under the heading of "governmental attitudes regarding international and nongovernmental investigation of allegations of violations of human rights." No section exists on governmental attitudes toward humanitarian aid. Even more surprising is that the Burma report overlooks the well publicized initial obstruction of aid to the victims. It describes the government's response as one that "generally granted permission" to NGOs, the UN and foreign aid agencies to assist the victims, without reference to the lengthy delays and obstruction of aid that undoubtedly caused preventable deaths, and constituted a serious violation of human rights, with some even arguing that it was tantamount to crimes against humanity.[262]

[262] See, for example, Gareth Evans, "Facing Up to Our Responsibilities," The Guardian, 12 May 2008; and Lloyd Axworthy and Allen Rock, "Responsibility to Protect? Yes," Globe and Mail, 9 May, 2008.

THE WAY FORWARD

To improve the US response to internal displacement worldwide and close remaining gaps for IDPs, the following recommendations are offered:

PART ONE: LEGISLATION

Reference IDPs in legislation

Foreign Assistance Act (FAA) of 1961. Update the FAA to include IDPs and their host communities as a group of concern, just as in the past refugees, orphans, the disabled and war affected populations have been added.

More specifically, the FAA should:

- Establish that policies and programs to prevent further displacement and resolve situations of displacement are priorities for US diplomacy and foreign assistance since unchecked internal displacement can seriously undermine prospects for stability, peace and development within countries and also spill over borders.

- Reference the need for protection in all phases of displacement, support the application of the Guiding Principles on Internal Displacement as a framework for response; and require measures for prevention of gender based violence, trafficking, and recruitment of child soldiers.

- Recognize that IDP situations, like refugee crises, require a response that extends beyond the emergency phase to include care and maintenance, early recovery, return or resettlement, and reintegration. Such involvement will require coordination and cooperation across the US government, with other governments and with a broad range of regional and international actors.

- Clarify that the IDA is to cover not only the emergency phase but *protracted* emergency situations and early recovery activities (in coordination with development funds).

- Require USAID to report on its overall response to situations of internal displacement, its implementation of the USAID IDP Policy, and the mechanisms it utilizes to address displacement from its early stages until durable solutions can be found.

Migration and Refugee Act (MRA) of 1962. Update the MRA (which authorizes funding to PRM) to make specific reference to IDPs and host communities as populations of concern, so as to provide a stronger foundation for the State Department's involvement with IDPs. The Congress should also modify the name of the act to reflect the US and international community's increasing involvement with persons displaced within their own countries. It should encourage PRM in its funding of UNHCR and ICRC to make sure these agencies proportionately and adequately focus on IDPs. The act should encourage greater monitoring, coordination and evaluation of PRM's funded programs for IDPs, refugees and others of concern and simplify PRM's ability to utilize external evaluators to identify and develop best practice models for protection and assistance.

Increase flexible funds for response

The Congress should enable PRM to draw down its emergency response funds (i.e., ERMA) more easily for IDP and refugee emergencies by authorizing the Secretary of State or the PRM Assistant Secretary to complete the drawdown rather than having to wait for what at times is an extremely lengthy Presidential approval.

Overall, the Congress should ensure that US law provides for adequate and flexible funding mechanisms at headquarters and in the field to enable quick and equitable response to the needs of displaced populations until durable solutions can be found. The Congress has awarded such flexibility to military commanders through the Commander's Emergency Response Program (CERP) and should do no less for the US's humanitarian and development programs. PRM's Assistant Secretary as well as others have called for contingency funds and the ability to move funds around accounts more easily both at headquarters and in the field to improve the effectiveness and timeliness of US response to small scale and large scale humanitarian crises.[263]

In addition to its IDA and the CCF, USAID would benefit from a new flexible fund to enable it to deal with early recovery programs. InterAction has called for mechanisms that can assure sufficient levels of overall funding and support for IDPs not just in the emergency phase but in protracted emergency situations.[264]

(For recommendations on increases in staff and funding, see Parts Three and Five).

[263] See, for example, Eric Schwartz, "Preventing and Responding to Crises and Conflicts, Council on Foreign Relations, 24 November 2009, at htttp://www.state.gov/g/prm/rls/rmks/remarks/132775.htm

[264] InterAction statement, p. 4.

PART TWO: POLICY MEASURES

Adopt an overall policy on humanitarian assistance

The Obama Administration should identify and affirm the principles to guide decisions on humanitarian aid so that they are transparent and inclusive of the persons of concern (e.g. refugees, IDPs, women and children at risk and other affected populations). The continued number of internal conflicts and the increasing number of natural disasters has led to a substantial growth in the international, national and also private sector response, creating the need for agreed-upon US standards for providing such aid. In Europe, a European Consensus on Humanitarian Aid was adopted in 2007 that sets out "the values, guiding principles and policy scope of EU [European Union] humanitarian aid and strengthens the EU's capacity to help people suffering in crisis zones across the globe."[265]

US humanitarian policy should:

- Reconcile principles of neutrality, impartiality and needs-based assistance with competing foreign policy priorities.
- End unjustified disparities in aid among different vulnerable groups (e.g., refugees and IDPs).
- Define vulnerability and apply it uniformly in the provision of aid.
- Address the needs of special groups (e.g. women, children, the elderly, persons with disabilities, IDPs, stateless persons, victims of gender based violence).
- Provide aid to communities and families affected by or hosting IDPs or refugees.

Develop and utilize standardized needs assessments to guide decisions on the use of scarce resources.

- Link humanitarian and development aid.
- Set the parameters and conditions for military involvement in humanitarian aid, the comparative costs as well as the positive and negative consequences of military involvement, as well as requirements for oversight.

[265] Joint Statement by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the European Commission, at http://ec.europa.eu/echo/files/policies/consensus/consensus_en.pdf

- Promote cooperation with local and international NGOs, and

- Ensure participation in international efforts at humanitarian reform, response to emergencies, and multilateral funding mechanisms.

When speaking of a comprehensive approach toward refugees and IDPs, the policy should express a clear US government commitment to integrate IDP needs into US policies and programs and into multilateral humanitarian response. It should explain the humanitarian, political and strategic reasons for doing so, note the interest of a broad range of national and international advocacy groups in the plight of IDPs and highlight the link between humanitarian aid and development goals to address IDP situations. Like refugees, IDPs have both emergency and longer term needs to achieve durable solutions. Humanitarian assistance should be seen as but "the genesis of the transition to long term political, economic, and social investments that can eliminate the root causes of conflict and displacement."[266]

Update and Reissue USAID's IDP Policy

The new USAID Administrator, Rajiv Shah, should have the IDP Policy and its Implementation Guidelines updated and reissued. The policy should be revised to:

- Give greater emphasis to natural disasters and the protection problems they create, given the rise in the number and severity of disasters and the growing recognition that the human rights of the victims must be protected.

- Endorse UN humanitarian reform (which was adopted after the policy) and the need to strengthen the protection and early recovery clusters, and

- Take into account the greater role the State Department (PRM and IO) will play given UNHCR's and the UN's expanded involvement with IDPs.

Some USAID staff also suggested: more detailed attention to documentation and registration programs; a greater focus on the political rights of IDPs, including political participation, voting, and restitution of their property or compensation; and a monitoring tool to evaluate IDP protection in the field.

Once updated, the Administrator should disseminate the IDP Policy and Guidelines to all offices and field missions. His cover note should emphasize that understanding the special needs of IDPs and ensuring protection, assistance and solutions for them will reinforce USAID's overall commitment to vulnerable populations; and that failure to address dis-

[266] Department of State, USAID, *Strategic Plan FY 2007-1: Transformational Diplomacy,* 7 May 2007, p. 30.

placement can risk new cycles of national and regional instability and undermine US humanitarian and development goals. The note should call upon USAID staff to encourage governments to present development plans that support the reintegration of IDPs. Finally, the note should remind USAID staff of their obligation to report on their efforts to promote assistance, protection and reintegration and recovery support for IDPs.

Extend the USAID IDP Policy to cover all US government offices dealing with internal displacement

All offices in the US government involved with internal displacement should be instructed to follow the relevant precepts and principles of the USAID IDP Policy. Such offices would include in particular the State Department—PRM, the Office of the Coordinator for Reconstruction and Stabilization (S/CRS), regional bureaus, Embassies as well as other government departments (e.g., DOD, the Department of Agriculture, DHS).

The following instance illustrates the importance of government-wide dissemination and application of the policy. In 2004-5 the US Ambassador to Afghanistan proposed to use USAID funds to move tens of thousands of Afghan IDPs out of Kabul to a barren space far from the capital where they would have no sustainable means of support. According to a former State Department official, USAID officers objected to this approach on humanitarian and development grounds. The Ambassador, hoping to curry favor with the government, proceeded nonetheless with this project without reference to the policy, with which he was not familiar; nor did he consult with IDPs. It took opposition from members of Congress (a legislative provision prohibiting any funding of this housing project) as well as the successor Ambassador's objections to reverse this misguided plan.[267]

In this example, the State Department did not have to take into account the IDP Policy; and USAID staff were too easily overruled. It is essential for government offices beyond USAID to know that they are expected to adhere to the relevant provisions of the USAID IDP Policy when addressing IDP situations. Most persons interviewed expressed support for extending the USAID Policy to *all* government offices involved with IDPs. As one aptly said, "The IDP Policy should be for the whole government." [268]

Evaluate implementation of USAID IDP Policy

After more than five years, it is timely for USAID to evaluate the implementation of its IDP Policy so as to promote its maximum impact on IDP situations. The evaluation should address how effectively the policy has been integrated into USAID strategic and country plans, how USAID can best determine the number of IDPs assisted by its programs, and

[267] Interview with former government official, 2010.
[268] Interview with former government official, 2010.

the extent to which the programs encompass all phases of displacement, from the emergency phase through early recovery, livelihoods and durable solutions. Since many government staff seem to be unfamiliar with its reporting mechanisms (contained in the Implementation Guidelines),[269] the evaluation should identify ways to improve transparency and overall reporting. Both outsiders and insiders should be involved in the evaluation process, which should cover the performance of USAID staff and also their implementing partners. Because evaluations can take a long time, quick, expeditious ways of undertaking evaluations should be explored such as "real-time" evaluations.

Include in USAID performance evaluations implementation of the IDP Policy

To encourage USAID mission directors to carry out the USAID IDP Policy, their annual performance evaluations should include how well they integrate internal displacement into their programs and promote solutions for IDPs. As a former USAID senior official observed, USAID mission directors need to be made aware that implementation of the policy is in US interests since addressing IDP needs "reduces risks in countries, can prevent new disasters and promotes development."[270]

Expand training in the IDP Policy and other IDP frameworks

Training programs for USAID staff in the IDP Policy and the Guiding Principles should reach staff beyond DCHA/OFDA (including contractors) on a consistent basis. All staff dealing with IDPs should be expected to know the provisions of the IDP Policy and the Guiding Principles. The training should cover the full range of IDP needs—emergency protection and assistance as well as early recovery issues and the economic, social and political rights inherent in reintegration and development. The training should help expand the "mindset" of those country directors who are said to consider displaced populations a humanitarian emergency rather than a development problem.[271] Because of the periodic rotation of USAID country directors and other staff, it is essential that more USAID staff be trained so that an agency wide understanding of the IDP policy is achieved.

The training in the policy also should extend to staff in the Department of State (not only in PRM but in IO, DHL, S/CRS, regional bureaus and Embassies) and to personnel in DOD and other government offices whose work may have impact on internal displacement. Staff in these offices must be better aware than they are now of the policy's provisions when dealing with IDPs, host communities and other populations affected by internal displacement.

[269] See Implementation Guidelines, p. 8.
[270] Interview with former USAID official, 2010.
[271] Interviews with former and current USAID officials, 2009-2010.

PRM staff in particular who are expected to deal with both refugees and IDPs must receive mandatory training in the IDP Policy, the Guiding Principles and other essential frameworks for IDPs (e.g., the Framework on Durable Solutions for IDPs[272] and the Framework for National Responsibility[273]).

PART THREE: INSTITUTIONAL ARRANGEMENTS

Clarify roles and responsibilities for IDPs within the US government

The Obama Administration is currently engaged in two major reviews: an NSC Presidential Study Directive on Development; and a Quadrennial Diplomacy and Development Review (QDDR) for the State Department and USAID. The QDDR includes a Working Group on Preventing and Responding to Crises and Conflicts. The findings, expected later this year, should have an impact on the prevention of displacement caused by conflict, the way humanitarian assistance is provided to IDPs, and how IDPs are integrated into post-conflict development programs.

In the interim, many proposals have been put forward to "fix" the US government response to humanitarian emergencies.[274] These include:

> 1) A revitalization of USAID with more authority, staff and funding provided to its humanitarian and development programs. This would restore the agency's capacity, reduce the fragmentation of the US humanitarian and development response, and reinforce USAID's lead role on internal displacement. In the words of one former official, USAID "is the proper home for IDPs;" it has operational capacity and a less politicized environment than the State Department.[275] At the same time, it should consult with and work closely with the State Department, which would carry out diplomatic advocacy and fund and oversee relationships with key multilateral humanitarian organizations. Some propose the reinvigoration of OFDA by removing it from DCHA and merging it with FFP and OTI into a new USAID office to deal with emergencies.
>
> 2) Greater authority to PRM on humanitarian issues to make it the principal lead on the development of humanitarian policy toward displaced populations, includ-

[272] *Framework on Durable Solutions for Internally Displaced Persons*, Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, Human Rights Council, UN doc. A/HRC/13/21/Add.4, 9 February 2010.
[273] See supra note 256.
[274] Interviews with government officials and non-governmental personnel, 2009-2010.
[275] Interview with former USAID official, 2010.

ing IDPs, refugees, and other affected groups. Because humanitarian decisions are invariably linked to political and security concerns, it is argued that PRM would be the more effective candidate in defending humanitarian space and ensuring that foreign policy decisions take humanitarian issues into account. While USAID would remain the operational arm, PRM would be in charge of policy development and diplomatic advocacy, given its seat at the foreign policy table, its expertise with protection, and its role in overseeing and funding UNHCR's growing role with IDPs and ICRC's role with civilians in armed conflict. It would have to consult closely with USAID since operations and policies need to be integrated.

3) A merger of OFDA and PRM, bringing them together either into USAID or the State Department to promote a more coherent response to emergencies. (A variant would be to merge OFDA, FFP, PRM and S/CRS into an independent entity although USAID and State could be expected to block this idea.) A merger of OFDA and PRM within USAID is reported to have some support at the Senate Foreign Relations Committee and a good deal at USAID/DCHA,[276] although it has encountered resistance from the State Department and might also require legislative approval, impeding an early and timely restructuring. Former USAID Administrator Andrew Natsios while not commenting on whether PRM should be merged into OFDA, has warned that merging OFDA into the State Department would overly politicize decisions and subject it to State's cumbersome "clearance process which will kill emergency response."[277] On the other hand, moving PRM into a more independent USAID would reduce the Department's leverage in dealing with humanitarian emergencies, in particular by removing the resources and the staff with the skills to manage policy development, funding of programs, and oversight of key multilateral humanitarian agencies. It would also separate humanitarian policy and programs from the diplomatic skills and clout of the State Department.

4) A stronger coordinating role for the NSC that would bring together all the key players (e.g. USAID, the State Department, DOD and other offices) to discuss and reach decisions on the government response to humanitarian emergencies and the displacement they engender. In the view of some, the NSC also should settle policy disputes, help mobilize the necessary resources for humanitarian and human rights crises, and promote strategies to resolve these situations. Others, however, do not see the NSC as being able to carry out such responsibilities on a sustained basis since it may easily be called away by the President to address other critical

[276] Interviews with government officials, 2010; see also SFRC Report 111-122, supra note 170.
[277] Interview with Andrew Natsios, 3 March 2010.

issues. Moreover, according to some, the current NSC lacks strong capacity on humanitarian issues, is caught up primarily with security and development issues (which could change), and does not have the needed time and energy to settle disputes between the State Department and USAID (which most agree should be worked out by the parties themselves). Over-involvement by the NSC could risk slowing down humanitarian aid decisions and politicizing them.

In considering whether or not there should be a radical restructuring of the humanitarian and development offices in the US government, it should be borne in mind that IDP situations often require a coordinated government-wide approach, encompassing a broad range of interventions—preventive actions, emergency relief, human rights protection, access to permanent shelter, education and livelihoods, the achievement of political settlements, and safe and sustainable returns or resettlement and reintegration. Such interventions involve many different parts of the US government (humanitarian, human rights, development, relations with international and regional organizations, political diplomacy, the military etc.) making it necessary to integrate the issue into all offices whose activities and programs impact on internal displacement.

Creating a single humanitarian office to handle IDPs and other vulnerable groups, while theoretically attractive, may encounter many problems in practice, namely: 1) time consuming and enervating battles over reorganization; 2) outright resistance to restructuring, including in the Congress if legislation is required and appropriations shifted; 3) the destruction of offices with built up specialized competencies and modes of operation; 4) the demoralization and distraction of staff during the process; 5) the difficulties of mixing "apples and oranges" since DCHA/OFDA and PRM have different sources of authority, competencies, resources, constituencies and approaches (bilateral vs. multilateral) for dealing with emergencies.

While we welcome current efforts to strengthen USAID's development role, we would reserve for a future time—were it still found to be necessary—the 'one office' option for humanitarian emergencies. For the present, we believe greater efforts should be made to ensure that the two offices most directly and strongly engaged with IDPs—DCHA/OFDA and PRM—work closely together in a re-designed shared responsibility. Relations between the two need to be restructured and reinvigorated to achieve a strong partnership and more effective policy and programs for IDPs.

It is well known that inconsistent consultation and long standing competition have undermined the US response to situations of displacement. Yet, over the past year, there has been movement toward cooperation. PRM Assistant Secretary Schwartz's visit to Haiti together with USAID/DCHA's Deputy Assistant Administrator Susan Reichle is a recent exam-

ple.[278] While USAID played the major role in providing humanitarian assistance in the earthquake's aftermath, PRM was called in (albeit later than it should have been) to provide its expertise and support, in particular with regard to protection. The two should examine this case from the point of view of what was and what was not effective in their consultation and collaboration so as to identify how they can best work together to strengthen the US response in emergencies. It is noteworthy that regular meetings are again taking place between DHCA and PRM, and that Schwartz and Reichle are co-chairing the QDDR conflict working group.

Nonetheless, *just about every person interviewed* alluded to tensions between the two offices that need to be addressed. Otherwise IDPs will continue to fall in the middle of bureaucratic tugs of war and suffer. One senior official put it well: DCHA and PRM "have to know there are real lives and real people" at stake on the ground as a result of their actions.[279] Similarly, an NGO representative observed, "The bureaucratic tussle is ridiculous, there is so much to do for IDPs …. They [DCHA and PRM] need to work together to get the whole of the USG involved to get governments and the UN to live up to their commitments."[280] Yet today, some USAID staff openly state that "IDPs should come to AID completely," whereas some staff in PRM see IDPs, or at least 'conflict IDPs,' as a natural extension of their work with refugees.[281] But neither USAID nor State has sufficient capacity or skills to deal with the entirety of the issue. Nor can IDPs be completely split from refugees. The two groups are often intertwined in the field; moreover, there is fluidity in the categories—IDPs can easily become refugees and refugees often become IDPs when they return to their countries and find no sustainable solutions. The former Secretary of State for International Development in the UK posed the question well when he asked: "Is it really sensible that we have two different systems for dealing with people fleeing their homes dependent on whether they happen to have crossed an international border?"[282] Moreover, PRM funds and oversees UNHCR, which now considers 16 million IDPs as a population of concern.

A genuinely shared responsibility between the two offices should include:

- *Senior oversight*. The USAID Deputy Administrator and the Deputy Secretary of State for Management should be called in to oversee the working relationship between DCHA and PRM, receive joint progress reports on their collaboration and closely

[278] A Letter from Assistant Secretary Eric Schwartz, Mission to Haiti and the Dominican Republic, 7 May 2010.
[279] Interview with government official, 2010.
[280] Interview with NGO representative, 2010.
[281] Interviews with government staff, 2010.
[282] Hilary Benn, Statement before the Overseas Development Institute, London, 15 December 2004.

monitor the results. These two senior officials should be charged with elevating the DCHA/PRM relationship to one of genuine partnership.

- *An expanded new division of labor between DCHA and PRM on response to humanitarian emergencies.* Since their 2004 agreement, many changes have taken place that have impact on IDPs. The UN's cluster approach, for instance, has expanded the role of UNHCR with IDPs, giving PRM greater weight in IDP decision making. The increase in number and magnitude of natural disasters resulting from climate change has enlarged USAID's role. At the same time, greater recognition of the protection and human rights needs of IDPs in disasters has engaged PRM in disasters (PRM staff have often served on DART teams as protection advisors). A new MOU needs to identify the comparative advantages of the two offices and decide on issues such as 1) how PRM and USAID should best coordinate in situations of forced displacement caused by conflict—whether PRM's role should also include seeking to prevent and find solutions to conflict and whether USAID's role should include reconstruction and development solutions in conflict and disaster situations; 2) whether USAID's lead role in natural disasters should include protection of the human rights of IDPs or whether PRM (and UNHCR) should regularly play this role; 3) whether PRM and USAID should divide responsibilities according to the kind of emergency—e.g., with PRM assuming lead responsibility for all displacement situations caused by conflict and human rights abuse, and USAID taking the lead in all natural disaster situations; and 4) whether and how PRM and USAID should fill gaps in responses, among them early recovery measures for the displaced, disparities in refugee and IDP assistance, and the provision of education for IDP children.

  The MOU should establish basic principles for operation, in particular equitable treatment for vulnerable groups. The built-in disparity between refugees and IDPs in the work of PRM (of UNHCR's $3 billion budget, more than $2 billion is intended for refugees) should be addressed. Similarly, USAID's selective bilateral approach which is reported at times not to address all affected populations should be adjusted to promote a more comprehensive reach.

  The two offices should engage in joint planning for emergencies and be flexible in how responsibilities are divided. For example, DCHA/OFDA should be able to fund projects of UNHCR to fill programmatic gaps without having PRM consider its turf encroached upon. Its work for IDPs would surely be more effective if it knew more about UNHCR's IDP programs and PRM funding. Similarly, PRM and other parts of the government would benefit if USAID would become more transparent in its reporting about the IDP programs it funds and any gaps in essential services. In fact, the Chair of the Senate Appropriations Subcommittee recently warned that USAID

has to "change the way it does business if it wants the kind of money" it is asking for.[283] Further, DCHA should sharpen its ability to engage multilaterally at the policy level by providing core funding (as opposed to project funds) to OCHA, UNDP, UNICEF and other offices; this would increase its oversight and influence in international humanitarian policy and decision making. As for PRM, it should be able easily to provide grants to NGOs for work with IDPs. Although some consider PRM's NGO funding of gaps in multilateral programs potentially duplicative of USAID's NGO funding, de-linking PRM from NGOs financially "would limit a very powerful tool to respond to conflict displacement" and undermine UNHCR's work.[284]

Finally, the MOU should call on both offices to mainstream the issue of internal displacement into all relevant parts of USAID and the State Department and promote the integration of IDP issues into other parts of the government whose work impacts on displacement.

Strengthen the capacity of offices involved with internal displacement

- At USAID: An OFDA director (whose appointment does not require Senate confirmation) should be designated immediately (there has been none since January 2009) and all other senior positions should be filled as soon as possible. Every relevant office in DCHA (e.g. OTI, FFP) should have an IDP focal point as well as every regional bureau in order to ensure that the IDP Policy is fully implemented and integrated into agency programs. At present, there is only one IDP adviser in an agency considered the IDP lead. If USAID is serious about its IDP responsibility, then "the position should be elevated to Deputy" said one former official.[285] As for funding, OFDA's budget should be doubled (currently $845 million) so it can deal with protracted crises as well as emergencies like the 2010 Haitian earthquake without having to exhaust most of its resources; and its staffing should be increased well beyond the current 250 to permit greater field presence. "Having people on the ground is so important," emphasized a former USAID official.[286] The increases in staffing and funding would allow not only for more adequate responses to a range of emergency situations and disaster mitigation efforts, but would enable OFDA to pay greater attention to protection in the field, to better monitor and evaluate its programs, and to provide humanitarian assistance for IDPs and others beyond the emergency phase until they can access USAID or other early recovery and development programs. Although OFDA's primary focus should

[283] Senator Patrick Leahy, Chair of the Senate Appropriations State-Foreign Operations Subcommittee, as quoted in Emily Cadei, "USAID on the Hot Seat in Hearing With Senate Appropriations," *Congressional Quarterly*, 20 April 2010.
[284] Interviews with NGO and government officials, 2010.
[285] Interview with former USAID official, 2010.
[286] Interview with former USAID official, 2010.

remain emergencies and disaster mitigation, it needs resources to help bridge the gap between emergencies and longer term reintegration and development. Were OFDA, for example, able to treat education programs for IDP children[287] as well as livelihoods for adults[288] as emergency protection tools, it could address some of what falls under early recovery.[289]

USAID's regional bureaus and country missions (which have $5 billion in development funds in FY 2010) should be expected to devote funds and staff to better integrate IDPs in their mid- and long-term development goals and come in at an earlier stage to support the recovery and reintegration of displaced populations. Given that country directors, who enjoy considerable autonomy, often resist looking beyond their more narrowly fixed country plans, the Administrator should make clear his commitment to the priority of addressing the recovery and reintegration of displaced populations. As earlier noted, increased flexible funding mechanisms have been recommended to enable USAID to achieve this goal.

USAID country directors should be expected to enhance their diplomatic skills and engage in advocacy with governments for the reintegration of displaced populations. The IDP Policy calls for the integration of IDP needs into "post-conflict transitional aid, reconstruction and long-term development."[290]

The USAID Administrator should have a seat at the foreign policy table to ensure that the development and humanitarian aid consequences of decision making are understood.

- At PRM: The bureau should enter the 21st century by becoming the Bureau for Population, Displacement and Migration, or even better the Bureau for Humanitarian Affairs, serving as principal humanitarian adviser to the Secretary of State and responsible for supporting programs with multilateral organizations and NGOs to provide protection and solutions for the world's most vulnerable people. It should cooperate closely with a revitalized USAID in developing US humanitarian policy, upholding humanitarian principles, and together with USAID leading and coordinating US ef-

[287] According to the Women's Commission for Refugee Women and Children, education "reduces the risk that they [children] will be involved in dangerous activities," see *Education a Child's Right*, at http://womensrefugeecommission.org/docs/wrc_education.pdf

[288] The Women's Commission for Refugee Women and Children has also found that livelihoods are vital for the social, emotional and economic well-being of displaced persons and a key way to increase the safety of displaced women and adolescents, see http://womensrefugeecommission.org/programs/livelihoods

[289] Interviews with government officials, 2010.

[290] USAID IDP Policy, p. 8.

forts to resolve displacement bilaterally and multilaterally and contributing to conflict prevention, conflict management and post-conflict reconstruction and stabilization. The bureau should be equally concerned with *all* persons affected by humanitarian emergencies—refugees, IDPs, stateless persons and other affected populations, whether in camps, in urban settings or with host families, and should continue to manage US overseas resettlement of the displaced and deal with specific polices and programs regarding population and migration. Consideration should be given as to whether the trafficking office should become part of this bureau as well.[291]

As the State Department's chief advocate for humanitarian response, PRM should have an assured role in foreign policy decision making and be expected to engage in humanitarian diplomacy with foreign governments on humanitarian and displacement issues, ensure that the US government pays attention to the humanitarian consequences of foreign policy decisions, and mobilize donor governments in humanitarian efforts to prevent and resolve displacement. Together with USAID, IO, S/CRS and other relevant offices, the bureau should monitor multilateral and NGO humanitarian action and work to ensure that the organizations funded by the US promote equitable treatment of displaced people and durable solutions for them. It should continue to fund close to 30 percent of UNHCR's budget and a higher percentage of UNHCR's IDP pillar if necessary until the US can encourage other donors to increase their support.

As noted earlier, the bureau should be given the legislative authority and flexibility needed to quickly access ERMA funds (whose name should be changed from Emergency Refugee and Migration Account to reflect a broader usage, such as Emergency Humanitarian Response Fund). The ERMA account should be doubled and the regular MRA funds (for international organizations and NGOs) increased (see Part Five). More of PRM's NGO projects should focus on IDPs. Of the "funding opportunity announcements" PRM issued for NGOs in 2009, only three specifically mentioned IDPs.[292] The Assistant Secretary should continue to have a discretionary fund of at least $30 million to respond to emerging situations requiring special attention, such as the rise in gender based violence in the eastern DRC.

PRM's staff (now 139) should be increased by 20 or more percent and the 28 "refugee coordinators" in the field increased to at least 50 (with at least 5 assigned to Africa). They should be expected to equitably cover both refugee and IDP situations and be tasked with evaluating for resettlement particularly vulnerable IDP cases where appro-

[291] Interview with former US State Department official, 2010.

[292] Bureau of Population, Refugees and Migration, 2009 Funding Opportunities, at http://www.state.gov/g/prm/c27112.htm

priate.[293] Among the increased staff should be at least one senior and several mid-level officials with specific IDP experience and expertise to follow IDP crises worldwide on a *full-time* basis, promote policies and programs to address these situations in accordance with the Guiding Principles, and monitor and evaluate the IDP work done by the UN agencies and NGOs it funds. Although the bureau's preferred approach is to "mainstream" the issue so that all staff can deal with refugees, IDPs and other populations of concern, it must recognize that a different knowledge base and skills are needed for IDP situations and for growing urban displacement. Staff experienced with refugees over the decades do not have that base. Without some "affirmative action" at this stage, IDPs could risk becoming an "after thought" in a refugee bureau. In fact, PRM's description of itself is a good reason for having IDP staff. It generally mentions its concern for refugees, conflict victims, stateless persons, and vulnerable migrants but does not specifically mention IDPs.[294] Although it can be argued that conflict victims include IDPs, the internally displaced are not always conflict victims; IDPs may be forcibly uprooted by communal violence falling below the threshold of 'conflict' as defined by the Geneva Conventions; or they may be uprooted by human rights violations or by natural disasters where they also have protection needs.

- At other offices in the State Department:

  - DRL: A human rights officer in the Bureau of Democracy, Human Rights and Labor should be expected to focus on the protection and human rights dimension of displacement and work with PRM and USAID to develop strategies for enhancing the human rights of IDPs and other affected populations in emergencies. In the eastern part of the DRC, for example, rampant and brutal attacks and gender-based violence have reached epidemic proportions, necessitating protection strategies and interventions on behalf of the victims. Or in Pakistan, where the US has strategic interests, displacement and allegations of human rights abuses in counter-insurgency operations need to be scrutinized. In addition, the officer should help improve the reporting on internal displacement in the human rights reports (see below).

  - IO: The US Ambassador to the UN Economic and Social Council should encourage OCHA and UNDP to strengthen the early recovery cluster, given the cluster's relationship to the economic development of war-torn societies. The current Am-

[293] US law permits the resettlement of refugees as well as persons in refugee like situations within their own countries designated by the President for refugee processing. Historically in-country processing has occurred for certain Vietnamese, Cubans, evangelical Christians and Jews from the former Soviet Union, and currently for Iraqis. Thus, the US could consider resettling some IDPs at particular risk in Iraq, such as minority religious groups.

[294] See PRM website and internal documents (on file with authors).

bassador Rick Barton is a former Deputy High Commissioner for Refugees and an expert on post-conflict reconstruction. It should be expected that he give priority to promoting solutions for displaced populations, follow the UN's appointment and evaluation of Resident/Humanitarian Coordinators (RC/HCs), call for reconstruction programs to use the economic capacities of displaced populations, and support the efforts of the UN Peacebuilding Commission to integrate programs for displaced persons in its work.

- US Embassies**:** A directive should be sent to US Embassies to increase their awareness of the conditions causing internal displacement (in particular genocide, war crimes, crimes against humanity and ethnic cleansing) and the instability that can result if displacement is not addressed. Early warning of and promotion of preventive steps against conflict and displacement should become an integral part of the job of Embassies. In countries with large IDP populations, Chiefs of Mission should have access to flexible funds for response to such emergencies and be expected to appoint focal points to gather information for diplomatic intercessions, promote multilateral initiatives, and monitor how UN agencies and NGOs are performing. In Pakistan, the Ambassador's visit in 2009 to IDP camps is a good example of a US Embassy raising visibility to IDPs.[295] At the Embassy in Iraq, the US Senior Coordinator for Iraqi Refugees and Displaced Persons, appointed in 2009, is expected to work with the government, international organizations and NGOs to help improve and resolve the situation.

Strengthen NSC coordination of government programs involved with IDPs

The NSC should regularly bring together representatives from USAID, State, DOD and other relevant government offices to ensure collaboration, avoid duplication and unnecessary competition and identify the most effective way forward. One means of achieving improved coordination would be to revive the Contingency Planning Policy Coordination Committee, which could plan how to engage in a particular displacement crisis, identify US capacities and assets, and bring the players together to coordinate humanitarian policy across the executive branch.[296] In the case of IDP issues, the NSC should assure that policies and programs for IDPs span *all* phases of displacement—preventive measures, emergency relief, protection, early recovery and longer term reintegration and development—and are integrated into the programs of all relevant government offices.

---

[295] US Embassy in Pakistan press release, "US Ambassador Patterson Visits Jalozai Internally Displaced Persons Camp Complex," 10 July 2009.

[296] See Stewart Patrick, Testimony at Hearing on "International Disaster Assistance: Policy Options," Senate Foreign Relations Committee, 17 June 2008, at http://foreign.senate.gov/testimony/2008/PatrickTestimony080617p.pdf

PART FOUR: ADVOCACY

Intensify bilateral diplomacy on behalf of IDPs

The US should regularly use its bilateral relationships with governments of affected countries to press for the protection of IDPs and the resolution of their displacement.

Assistant Secretary Schwartz's trips to Pakistan and Sri Lanka in 2009 and his trip to Iraq with NSC Senior Director for Multilateral Affairs Samantha Power are good examples of the use of bilateral diplomacy to promote solutions for IDPs. In fact, Schwartz's first missions as Assistant Secretary of State were to countries with large IDP populations. In Sri Lanka, the US pressed for the release of IDPs from internment in overcrowded centers, which contributed to the release of many of the IDPs at the end of 2009.[297] Even earlier, Secretary of State Hillary Clinton telephoned the President of Sri Lanka to express concern about the tens of thousands of IDPs trapped in the north.[298] In Pakistan, the US raised the problem of forced returns of IDPs to unsafe and unsustainable areas and consequently, according to Schwartz, "Pakistani authorities have made clear their willingness to take seriously and investigate concerns about the repatriation process and other issues affecting displaced persons."[299] PRM has also engaged in "humanitarian diplomacy" with regard to displacement situations in the DRC, Yemen and Colombia and should continue on this course.

USAID leaves most diplomatic intercessions to the State Department, but it also has experience in negotiating on behalf of IDPs. In Sudan, for example, for many years, the USAID Administrator and other USAID officials negotiated with the government and also with the southern Sudanese SPLA/M over access for food aid to war affected populations. Moreover, in situations involving non-state actors, it may be easier for USAID to engage with these actors than the State Department (which generally does so indirectly through support for the ICRC, UNHCR and other international and non-governmental organizations).[300] USAID will also need to strengthen its advocacy role on behalf of the human rights of disaster victims, now that growing attention has begun to be paid to protecting persons in the aftermath of natural disasters. And it should advocate for durable solutions for IDPs.

To be effective, diplomatic intercessions have to be persistent and at times backed up by the full weight of the government. Gaining access to Burma during Cyclone Nargis engaged the highest levels of the State Department, White House and DOD. For Iraq, the

[297] Interview with human rights NGO, 2009.
[298] See "Clinton raises security fears for IDPs in north," IRIN, 16 March 2009.
[299] Statement by Eric P. Schwartz, Senate Foreign Relations Committee Subcommittee on Near Eastern and South and Central Asian Affairs, 29 July 2009.
[300] Interview with former USAID official.

Obama Administration, as above noted, has appointed two senior officials to deal with the refugee and IDP problem—one at the NSC and the other at the Embassy.[301] They will need to encourage the government of Iraq to carry out its 2008 National Policy to Address Displacement,[302] in particular to:

- Appoint adequate staff in local and central government offices to help IDPs;
- Train police and military in protecting displaced persons;
- Establish mechanisms for property restitution and compensation;
- Institute programs to help IDPs and refugees return or resettle; and
- Allocate adequate resources to address the needs of the displaced.

The US-Iraq Joint Statement on Iraqi Refugees and Internally Displaced Persons in 2009, negotiated by the State Department and NSC, did succeed in eliciting a promise from the government of Iraq to dedicate new resources to assist the displaced, including "a proposed 250 percent increase in the budget of the Ministry of Displacement and Migration and through investments in compensation, housing and services."[303] The Joint Statement also commits Iraq to make security for returned displaced persons "a priority of Iraq's Security Forces," although more will be needed than a statement. The US will have to devote special attention to how security will be provided for IDPs and other civilians as the US draws down its troop levels.

The US should also direct its bilateral diplomacy toward countries with *protracted* situations of displacement, which have gone on for more than ten years (e.g., Azerbaijan, Armenia, Georgia, Turkey, the Balkans and Colombia) and encourage resolution of these long standing problems. Here USAID's involvement would be particularly valuable. The US should collaborate with other concerned governments and the UN and make known to specific governments the importance of their assuming their *national responsibility* to end the displacement of their citizens.

---

[301] The official at the NSC has been charged with coordinating the efforts of the Department of State, USAID, DHS and DOD, while, the "Senior Coordinator for Iraqi Refugees and Displaced Persons" at the Embassy is authorized to deal with the Iraqi government, the international community and NGOs. See statement by Press Secretary Robert Gibbs, the White House, 14 August 2009.

[302] The policy promises to ensure that IDPs can readily access basic services, obtain documentation, secure compensation for lost or damaged property, find employment and housing, receive pensions, and obtain assistance and legal aid when subject to human rights abuse. See Press Release, Ministry of Displacement & Migration and UNHCR, Improving the Rights of the Displaced, 8 July 2008, as cited in Roberta Cohen, "Iraq's Displaced: Where to Turn?" *American University International Law Review*, Vol. 24, No. 2, 2008, pp. 327, 336-340.

[303] Embassy of the US, Joint Statement on Iraqi Refugees and Internally Displaced Persons, Baghdad, 14 November 2009.

To date, some 22 countries have adopted policies and laws on internal displacement, many of which are based on the Guiding Principles on Internal Displacement. In some cases these have proved to be important stepping stones toward addressing the needs of IDPs.[304] In its intercessions, the Obama Administration should build on this development and encourage states to adopt policies and laws to assist and protect their displaced populations and promote durable solutions for them. Most recently, Refugees International called upon the US and the UN to work with the government of Pakistan on a legislative framework for a national IDP policy.[305] In its intercessions with governments, the US should use both the Guiding Principles and the benchmarks for addressing and resolving displacement, presented by the RSG to the UN.[306]

Mobilize international support for the Guiding Principles on Internal Displacement

In IDP situations, the US should support the wide dissemination of the Guiding Principles by UNHCR, ICRC and other international agencies and NGOs. The Principles should be made available in local languages with workshops convened to promote understanding of their provisions and how exactly to apply them. The Principles are an important tool for governments in situations of internal displacement and for civil society in holding its government accountable. For the ICRC, there are IDP situations in which the Guiding Principles are more pertinent than the Geneva Conventions, for example when internal strife does not rise to the level of non-international armed conflict, required under international humanitarian law. In such situations, the ICRC should be expected to promote the Guiding Principles, which its 2009 policy describes as a "useful tool."[307]

The US should also ensure that reference to the Guiding Principles is included regularly in UN resolutions and reports pertaining to displaced populations, civilian protection and R2P. US Ambassador to the UN Susan Rice, like her predecessor Richard Holbrooke, should call upon the Security Council to reference the Guiding Principles in every relevant resolution.[308]

Apply the Principles at home

The US must call for the application of the Guiding Principles not only overseas but at home. Indeed, a particularly effective way of mobilizing support for the Guiding Principles

[304] See Ten Years of the Guiding Principles on Internal Displacement, GP 10, *Forced Migration Review*, December 2008.
[305] Refugees International, *Pakistan: Protect People First*, 26 October 2009.
[306] See supra note 272.
[307] Council of Delegates of the International Red Cross and Red Crescent Movement, Movement Policy on Internal Displacement, 23-25 November 2009, p. 20.
[308] Richard Holbrooke, Statement at Cardozo Law School, 28 March 2000.

would be for the US to show that it applies them in its own country. During Hurricane Katrina, American NGOs urged the government to use the Guiding Principles.[309] Now that climate change is expected to increase the number of natural disasters and the number of persons displaced,[310] US application of the Guiding Principles, together with the Operational Guidelines on Human Rights and Natural Disasters,[311] would demonstrate US commitment to international standards and would encourage other governments to apply them as well. Assistant Secretary Schwartz struck the right tone when asked about the application of the Guiding Principles at home: "I fervently believe that we need to practice at home what we preach abroad," he said. While acknowledging that the domestic implementation of international standards is a challenge, he suggested an NSC forum in which to promote this.[312]

It bears noting that applying the Guiding Principles might help reduce international criticism of US practices in disasters. The UN Human Rights Committee, for example, which monitors state compliance with the International Covenant on Civil and Political Rights, sharply questioned the US about violations of the human rights of Americans during Hurricane Katrina. It drew attention to the lack of transport arrangements for poor people in rescue and evacuation plans for the Gulf Coast as well as other denial of rights, and called upon the US to ensure that the rights of the poor and in particular African Americans will be "fully taken into consideration" in reconstruction plans.[313] It can be expected that the UN's forthcoming Universal Periodic Review of the US human rights record will include critical questions about the US response to Katrina.

Applying the Guiding Principles might also help the US government avoid costly legal action. Lawsuits are currently in progress in the US charging the government with "negligence" in failing to take sufficient preventive measures in New Orleans.[314] Yet both the Guiding Principles and Operational Guidelines include preventive measures as well as steps to take during and after disasters. The rights-based approach featured in these documents might not only lead to better protection for affected populations but reduce the

[309] See for example, Kromm and Sturgis, *Hurricane Katrina and the Guiding Principles on Internal Displacement*, supra note 234, p. 28.

[310] UN Office for the Coordination of Humanitarian Affairs and Internal Displacement Monitoring Centre, "Monitoring disaster displacement in the context of climate change," 22 September 2009.

[311] IASC Operational Guidelines on Human Rights and Natural Disasters, Brookings-Bern Project on Internal Displacement, June 2006. See also Human Rights and Natural Disasters: Operational Guidelines and Field Manual on Human Rights Protection in Situations of Natural Disaster, Brookings-Bern Project on Internal Displacement, April 2008. The Guidelines are currently being reviewed and revised.

[312] Eric Schwartz, Brookings Institution, 19 February 2010, at http://www.brookings.edu/events/2010/0219_internal_displacement.aspx

[313] Human Rights Committee, UN Doc. CCPR/C/USA/CO/3/Rev.1, para.26, 18 December 2006.

[314] See Campbell Robertson, "Elation, and Uncertainty, Over Katrina Liability," *New York Times*, 20 November 2009; and "A Win for New Orleans," Editorial, *Washington Post*, 23 November 2009.

chances that the government will face legal action for violating the rights of displaced Americans. Internationally, precedents are developing. The European Court of Human Rights, for example, has found the Russian government negligent because it failed to live up to its duty to "safeguard" lives by preventing mud slides in the northern Caucasus. It has ordered Russia to pay compensation to the surviving relatives.[315] In Africa, the newly adopted Kampala Convention affirms that governments "are liable to make reparations" to IDPs should they fail to protect and assist them in natural disasters.[316]

Deepen analysis of IDP situations in State Department human rights reports

The human rights reports could serve as an important tool for advocacy on behalf of IDPs. While they include useful information on displacement in many countries, they could be improved in the following ways:

- *Provide a more sophisticated analysis of internal displacement in the section of the reports on "Internally Displaced Persons."* Without adding to the length, this section should cover causes, overall trends, protection issues, and the government's response to assisting and protecting IDPs and finding them durable solutions. The Guiding Principles on Internal Displacement, the RSG's Framework for National Responsibility[317] and the Framework on Durable Solutions for IDPs [318] should be relied upon in evaluating government performance.

- *Make clear that the deliberate uprooting of populations from their lands and homes is a serious human rights violation and in certain circumstances a war crime and crime against humanity*. Such information at present is subsumed under headings where one would not look to learn about forced displacement; it should be included in an appropriate designated place.

- *Create a separate section in the reports on genocide, war crimes, crimes against humanity and ethnic cleansing*. These crimes often cause mass displacement and a special section on them would also serve to reinforce the responsibility to protect (R2P) doctrine [319] that the US has said it supports. Further, it might alert governments to take needed preventive and protective measures. National Intelligence Director Dennis Blair, speaking before Congress in 2010, linked genocide and widespread violence to US security interests and warned: "Looking ahead over the next five years, a number of countries

[315] Walter Kälin and Claudine Haenni Dale, 'Disaster risk mitigation – why human rights matter,' *Forced Migration Review*, No. 31, October 2008, pp. 38-39.
[316] The Kampala Convention, Art. 12(3).
[317] A Framework for National Responsibility, supra note 256.
[318] A Framework on Durable Solutions for Internally Displaced Persons, supra note 272.
[319] See supra note 261.

in Africa and Asia are at significant risk for a new outbreak of mass killing." [320] Mass atrocities should have a special place in the reports.

- *Identify new and creative ways of dealing with economic and social rights in line with President Obama's support of a US policy focus on "freedom from want."* In accepting the Nobel Peace Prize, the President elaborated:

> Security does not exist where human beings do not have access to enough food, or clean water, or the medicine and shelter they need to survive. It does not exist where children can't aspire to a decent education or a job that supports a family."[321]

IDPs of course are entitled to the full range of economic and social as well as civil and political rights as all other citizens. The Universal Declaration of Human Rights asserts that "Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family, including food, clothing, housing and medical care…" Yet in the reports, the denial of food and medical care to IDPs is treated more as interference with humanitarian need than as a violation of the right to life. The deliberate withholding of food and medicine should be covered under the section on "arbitrary or unlawful deprivation of life," currently devoted to killings and executions.

- *The reports should also include a section on governmental attitudes toward international and non-governmental humanitarian aid.* According to the Guiding Principles, displaced populations have the right to request and receive life-sustaining aid from their governments, and national authorities have the responsibility to provide that aid; when authorities are unable to do so, they have the obligation to grant international humanitarian organizations rapid and unimpeded access. The reports should indicate whether governments are trying to obstruct life-supporting aid to their displaced and other affected populations. Currently, there is a section in the reports only on governmental attitudes toward "international and nongovernmental investigation of allegations of violations of human rights."

In addition, the Assistant Secretary of State for Democracy, Human Rights and Labor should acknowledge the particular vulnerability of IDPs when speaking of internal conflicts. In his introductory statements to the human rights reports in 2010, Michael Posner said internal conflicts "disproportionately affect *vulnerable populations, often women, children, people with disabilities, refugees*, in places like Afghanistan, Sri Lanka,

[320] Michael Abramowitz and Lawrence Woocher, "How Genocide Became a National Security Threat," at http://www.foreignpolicy.com/articles/2010/02/26/how_genocide_became_a_national_security_threat

[321] President Barack Obama, Remarks at the Acceptance of the Nobel Peace Prize, Oslo City Hall, Oslo, Norway, 10 December 2009.

Somalia, the Congo, Sudan [emphasis added]." [322] The countries selected, however, house some of the largest IDP populations in the world. Sudan for example has 4.9 million IDPs, Somalia, 2.3 million, the DRC 2.1 million whereas the number of refugees is in the low hundreds of thousands.[323] DRL's acknowledging the human rights of the displaced and the abuses they suffer will help draw attention to their plight.

PART FIVE: OVERSIGHT AND FUNDING BY THE CONGRESS

Increase oversight and funding of IDP situations

Hearings. In addition to hearings on specific countries, the Congress should hold hearings on the US response to internal displacement. In particular,

- The Congress should hold a hearing on how the US is dealing with IDPs worldwide in both conflicts and natural disasters, identify the gaps and best practices in preventing and resolving displacement, and recommend how to improve the response. Since one of the consequences of US policies in Iraq, Afghanistan, Pakistan and Somalia has been large scale displacement, it is important for the Congress to scrutinize how the US is responding as this has impact on the success or failure of these policies. The anniversary of the USAID IDP Policy (October 2004) might be a timely occasion for such a hearing.

- Because Africa houses most of the world's IDPs (12-13 million) and some of the most desperate, the House and/or Senate Subcommittee on Africa should hold a hearing on IDPs in Africa. The hearing should seek to increase US and UN attention to Africa's IDPs,[324] who outside of Sudan are so often ignored, and to promote more consistent efforts to tackle root causes of conflicts so as to *prevent* further displacement. The Obama Administration has given importance to the issue of prevention, which should be spelled out for displacement situations. One occasion for such a hearing might be the coming into force of the Kampala Convention.

Funding. Programs funded by USAID and PRM to provide life saving assistance and pro-

[322] Assistant Secretary of State for Democracy, Human Rights and Labor Michael Posner, Remarks to the Press on the Release of the 2009 Country Reports on Human Rights Practices, 11 March 2010.
[323] See Internal Displacement Monitoring Centre, www.internal-displacement.org
[324] Donald K. Steinberg, Opening Address, Conference on The International Challenge of Internal Displacement, American University and Library of Congress, 12 April 2001. Steinberg compared the attention paid to IDPs in Angola with that paid to refugees in Albania and Macedonia. See also Roberta Cohen, Testimony before House Committee on International Relations Subcommittee on Africa, Global Human Rights and International Operations, 10 May 2006.

tection need to be substantially increased. For FY 2010 the Congress provided only $845 million for OFDA's response to international humanitarian emergencies, which included $300 million for local food procurement and $50 million for a new USAID Complex Crisis Fund (CCF), important steps forward in humanitarian aid. However, double that amount was required, as the Haitian and Chilean earthquakes sadly demonstrated. If the Congress is unwilling to increase USAID's IDA fund and the CCF, then it must find another way to fund additional emergency response, disaster mitigation, and ongoing post-emergency humanitarian aid—efforts that only OFDA can provide. As previously noted, current funding is inadequate to cover protracted emergencies and early recovery initiatives needed to bridge the gap to development programs. Investments, however, in durable returns and reintegration should be seen as cost effective in that they help improve security on the ground, prevent further displacement, encourage development and prevent the radicalization of populations. Either Congress should create a new special fund, or USAID should reprogram some of its money and utilize it for early recovery.

PRM's emergency fund (ERMA) should also be doubled to $200 million with speedy draw downs authorized by the Assistant Secretary or Secretary of State. PRM's regular MRA funds (awardable to international organizations and NGOs) should be increased by at least $300 million over current levels for FY 2011 and as needed in future years to maintain US support for UNHCR's budget at closer to 30 percent.

The Congress, in providing these funds, should require reporting by both USAID and PRM on the extent and impact of their programs on IDPs and host communities and the remaining gaps that need to be filled. USAID's current lack of transparency and reporting makes it difficult to know how effectively USAID is implementing its IDP Policy; nor is it clear whether the organizations supported by PRM are adequately responding to IDP protection and assistance needs.

The US' contribution to the UN's CERF and other pooled funds should also be increased. A genuine humanitarian policy will want to respond to neglected situations whether or not the countries are of special interest to the US. As UN High Commissioner for Refugees Guterres observed when visiting the Central African Republic: "It is unfair that all the attention is focused on Iraq, Afghanistan and Sudan…"[325] The USAID/DCHA's representative on the CERF Board should work to promote changes in the CERF and monitor whether it has begun to operate in a way more conducive to US support. The UN Under-Secretary-General for Humanitarian Affairs has acknowledged administrative and cost problems with

[325] UNHCR, "UNHCR chief visits Central African Republic, pledges support for the forcibly displaced," 10 March 2010.

the CERF as well as problems of NGO access and expressed willingness "to overcome" them.[326] US support would signal a more multilateral approach to humanitarian aid.

To be sure, concern about rising deficits may dictate against substantial additional US spending on international humanitarian issues. Yet those interviewed routinely noted that the cost of the war in Iraq has surpassed $330 billion and that the war in Afghanistan has cost $78 billion, not to speak of the current $708 billion DOD budget request for FY 2011. Defense Secretary Robert Gates himself has been urging increased resources for diplomacy and development: "The reality is the Department of State and the Agency for International Development were starved for resources for decades."[327] The Chairs of the House and Senate committees dealing with foreign aid have also agreed on the need to strengthen diplomacy, development and humanitarian aid as foundations of US national security, as did 187 other members of Congress in a letter to the President.[328]

PART SIX: PROMOTING MORE EFFECTIVE REGIONAL AND INTERNATIONAL ACTION ON IDPS

Support greater regional action on IDPs

United States support for a more active role by regional organizations in promoting protection and assistance for IDPs could ensure a more consistent response to displacement situations and in the process enhance regional stability. The Association of Southeast Asian Nations (ASEAN), with US and UN encouragement, became actively involved in diplomatic initiatives to open up access to Burma during Cyclone Nargis, which helped save lives and promote security; it also became directly involved in coordinating international aid. More attention from ASEAN and other regional bodies to mobilizing action on displacement situations should be encouraged.

In Africa, even though its implementation machinery is weak, the Kampala Convention has been hailed for obliging governments "to recognize that IDPs have specific vulnerabilities" that "must be supported."[329] The US should:

- Provide support for civil society programs in Africa that promote ratification and implementation of the Convention.

[326] John Holmes, "Humanitarian action: a Western-dominated enterprise in need of change," *Forced Migration Review*, Issue 29, December 2007, p. 4.
[327] Panel at George Washington University, 6 October 2009, at http://www.defense.gov/Transcripts/Transcript.aspx?TranscriptID=4493
[328] Letter of Representative Howard Berman to President Obama, 9 December 2009, at http://www.internationalrelations.house.gov/press_display.asp?id=679
[329] "Analysis: African IDP convention fills a void in humanitarian law," IRIN, 27 October 2009.

- Press for national laws and policies in African countries to carry out the Convention's provisions.

- Encourage African lawyers to review national legislation in their countries with a view to bringing it into line with the Convention or developing new laws as needed.

Similarly, regional bodies in Europe and the Americas should be mobilized for greater political and humanitarian involvement in protecting and assisting IDPs. The OSCE in 2003 recognized the Guiding Principles as a "useful framework" for its work. The organization should be encouraged to monitor situations of displacement and issue reports on how governments (e.g., South and North Caucasus, Turkey, the Balkans) are dealing with the problem and what best practices are emerging.[330] Regional action by the Organization of American States (OAS) should also be promoted; in particular its performance during the 2010 Haitian earthquake should be reviewed to see what was effective and what could be improved. Encouraging civil society in different countries to support regional standards and programs for the displaced is another way to promote regional engagement.

Press for more effective international institutional arrangements

This can be accomplished in a number of ways.

Active senior participation in the UN humanitarian reform process

This would mean:

- The development of clear US positions to improve the accountability and effectiveness of the international response to emergencies.

- More engaged participation in multilateral funding mechanisms (e.g. CERF, pooled and common funds) that resolves differences and paves the way for greater US support.

- Designation of officials from the US Mission to the UN, the Department of State and USAID to participate in discussions on how to strengthen the effectiveness of the cluster system and thereby improve the cost effectiveness of the UN's humanitarian machinery.

[330] See Statement of Roberta Cohen, "Hearing on Internally Displaced Persons in the Caucasus Region and Southeastern Anatolia," before the Commission on Security and Cooperation in Europe, 10 June 2003, pp. 10-11.

A clear message of support for UNHCR

The US should send a clear unequivocal message to UNHCR and donor governments that the US supports the refugee agency's expanded role in protecting and finding solutions for IDPs. PRM and UNHCR signed a Framework Agreement in 2009 that includes protection and solutions for IDPs as a "global strategic objective."[331] It supports the integration of IDP activities into UNHCR's programs and budget and endorses UNHCR's role on IDPs in the UN cluster system. But the agreement also makes clear that "the needs of refugees and stateless persons remain *priority considerations* [emphasis added] consistent with UN General Assembly resolutions and UNHCR's mandate."[332]

In his address to UNHCR's Executive Committee in 2009, Assistant Secretary Schwartz appeared to call for a more balanced policy:

> …we must effectively implement the UN system-wide determination that UNHCR should advise and support protection not only for those who have sought refuge from persecution or conflict by crossing borders, but also for those who have been displaced as a result of conflict within their countries of origin. *Vulnerable populations with similar protection requirements merit similar attention and concern from the international community* [emphasis added].[333]

To reinforce the US commitment to a more comprehensive approach, the US should encourage UNHCR to strengthen its protection role with IDPs. In fact, the US should consider whether it would not be more cost effective to support one protection mandated agency (UNHCR) to lead protection rather than funding protection capacity development in multiple UN agencies in the protection cluster. The RSG told the UN Human Rights Council in 2010 that UNHCR's capacities "are still very limited compared to the overall needs of the displaced. A more robust and decisive engagement will be required."[334] To achieve this, UNHCR should:

- Undertake proactive advocacy with governments and non-state actors on behalf of IDPs;

[331] Framework for Cooperation Between the Office of the UN High Commissioner for Refugees and the Bureau of Population, Refugees, and Migration, US Department of State for the Year 2009, at http://www.state.gov/g/prm/rls/123593.htm

[332] *Ibid.*, p. 4.

[333] US Statement to 60th Session of UNHCR Executive Committee, 29 September 2009.

[334] See UN Human Rights Council, Report of the Representative of the UN Secretary-General on the Human Rights Internally Displaced Persons, supra note 99, para. 60.

- Expand UNHCR presence in the field when IDPs are in danger, in particular by creating a corps of UNHCR protection officers that can be deployed quickly;[335]

- Appoint IDP-specific staff in all three pillars of the Division of International Protection (policy/legal standards, operations, and comprehensive solutions) with the goal of mainstreaming IDP needs throughout the entire organization;

- Provide communities affected by displacement (e.g. host families and communities) with assistance so that they are not overburdened by the influx of IDPs;

- Increase engagement with urban IDPs,[336] and reinvigorate the search for durable solutions for protracted IDP situations;

- Give special attention to IDPs in Africa, where many UNHCR staff are reported not entirely familiar with IDP issues unlike in countries where UNHCR has been active with IDPs (e.g. Sri Lanka, Colombia, Balkans, the Caucasus);[337] and

- Develop the capacity to carry out protection responsibilities in natural disasters as proposed by the High Commissioner.

The goal should be an international agency that deals comprehensively and equitably with forced migrants. For too long, "the US (PRM) held back UNHCR on IDPs," an NGO representative observed.[338] It is now time for the US to mobilize political and financial support from donor governments so that the UNHCR can meet its responsibilities for IDPs. That means helping to raise the bulk of the 22 percent of its budget UNHCR has promised to devote to IDPs and insisting upon a genuinely expanded role inclusive of IDPs. The agency's rhetoric about "comprehensive" approaches is regularly reiterated, but the funding and staff to implement the approach have not yet been provided.

Attention to early recovery

The US should lend support to the early recovery cluster led by UNDP,[339] take the lead in promoting policy development in this area and mobilize other donor governments, inter-

[335] NGO representatives and experts interviewed considered this a high priority; one NGO argued that UNHCR should not have to rely upon protection cluster members to build up their capacities; rather UNHCR should have the capacity to respond to all aspects of protection.

[336] The UN High Commissioner for Refugees has agreed to develop a policy to "advocate for urban IDPs," see Antònio Guterres, "Protection challenges for persons of concern in urban settings," *Forced Migration Review*, Issue 34, February 2010, p. 9.

[337] Interviews with UN staff, 2009.

[338] Interview with NGO representative, 2010.

[339] The early recovery cluster has 24 members.

national financial institutions and the private sector to support this cluster's under-funded activities. "Experience has shown," RSG Kälin observed,

> …that people often find themselves in the worst living situations six to twelve months after the disaster, when emergency funding has stopped. This is primarily because early recovery measures were not initiated during the emergency phase. This can be avoided if donors do not shortsightedly restrict their assistance to life saving measures only and invest in early recovery now.[340]

Early recovery means re-establishing local governance structures; state protection institutions (e.g., judicial and law enforcement systems); basic services (e.g., schools, healthcare, water and sanitation); the re-issuance of lost documentation; and job creation and livelihood programs, in particular cash for work programs, micro credit loans and quick impact projects. Such efforts can build local capacity, reduce dependency, jumpstart reconstruction, in short assist communities to be on the road to development and allow them to "avoid threats to security and stability that emerge when large numbers of young people find themselves in desperate situations without a viable perspective for their futures." [341]

Because early recovery often falls between the cracks of relief and development agencies, both USAID and PRM as a matter of priority should develop a joint approach and seek flexible funding mechanisms to strengthen the implementation of the activities needed to ensure successful return, resettlement and reintegration. All US government staff interviewed acknowledged the need to address the relief to development gap.[342]

It is long overdue for the world's leading donor to take steps to encourage the World Bank, other international financial institutions and donor governments to promote the early involvement of development organizations in humanitarian crises. Over the past years, the World Bank has become more receptive to this idea.[343] A significant part of the effort should focus on displaced populations, in particular how best to achieve their return or

[340] Walter Kälin, "The Earthquake Recovery Process in Haiti," UN Human Rights Council Special Session on Haiti, 27 January 2010.

[341] *Ibid.*

[342] Interviews with current and former government staff, 2009-2010. One former USAID official revealed how he had tried to cajole country mission directors with initial funding in order to get them involved with IDP populations in early recovery activities.

[343] See, for example, Asger Christensen and Niels Harild, *Forced Displacement – The Development Challenge*, Social Development Department, World Bank, December 2009. The World Bank has developed a three-year working program on forced displacement, and in Azerbaijan, in March 2008 it approved a $15 million credit to improve living conditions, enhance economic opportunities and increase prospects for social integration for those internally displaced by conflict. In 2010, an additional $20 million was made available for the economic development of IDPs. See "Azerbaijan declares a tender for power supply network within WB project SFDI," at http://abc.az/eng/news/main/44987.html

resettlement, their rehabilitation and reconciliation with local communities and the incorporation of their needs into long-term development and poverty reduction plans. The UN's Framework on Durable Solutions for IDPs should prove a valuable tool to achieve this.[344]

Close monitoring of the cluster approach

The different US government offices that fund the international organizations involved in the cluster approach (PRM, USAID, IO) should jointly monitor whether the cluster approach is achieving results for IDPs. UN agencies should be expected to live up to their cluster responsibilities and to deploy staff experienced in coordination and emergency response. The Under-Secretary-General for Humanitarian Affairs and his Resident/Humanitarian Coordinators (RC/HCs) should be encouraged to more closely monitor and improve the inter-agency response to IDP situations. He should ensure that the shortcomings found in the IASC evaluations of the cluster approach (e.g., poor management, insufficient inclusion of local actors, failure to consult with beneficiaries or build on local capacities, unclear guidance as to when to activate and end clusters, absence of links with financing mechanisms) are remedied. The Under-Secretary-General should also make clear that RC/HCs in the field are expected to advocate with governments to encourage greater responsibility toward their displaced populations and that their performance evaluations will include such efforts. The US should continue to press to ensure the appointment of qualified RC/HCs.[345] A 2004 UN evaluation found that many RC/HCs did not advocate well for IDP protection, fearing it could interfere with the relationships they had established with governments on aid and development programs.[346]

When the cluster approach is not working, the US should be ready to speak out publicly as Assistant Secretary Schwartz did in the case of forced returns of IDPs in the DRC:

> Those returns—involving more than 60,000 persons—were not the international humanitarian community's finest moment. Many, if not most, IDPs were effectively forced back, and given little assistance or protection….all the more tragic that this involved camps where there was an international presence.[347]

In addition to its own bilateral efforts, the US should increasingly join with others in the donor community to promote more coordinated international action for IDPs. In Sri

[344] *Framework on Durable Solutions for Internally Displaced Persons*, supra note 272.

[345] RCs are generally development officers from UNDP and too many are appointed as Humanitarian Coordinators even though they do not know humanitarian issues well. Interviews with NGO staff, 2010.

[346] Simon Bagshaw and Diane Paul, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, UN Office for the Coordination of Humanitarian Affairs and Brookings-SAIS Project on Internal Displacement, Geneva, November 2004.

[347] Eric Schwartz "Trip to Democratic Congo 17 December 2009," at http://www.state.gov/g/prm/rls/news/133901.htm

Lanka, in 2009, donor governments and the UN jointly threatened to withhold assistance from the Sri Lankan government if IDP camps weren't opened up and aid allowed in. The joint advocacy had impact, and may be a model to be followed in other humanitarian emergencies.[348]

Support for the work of the RSG

The US should lend strong support to the work of the Representative of the UN Secretary-General on the Human Rights of IDPs who is the UN's principal advocate for IDPs uprooted by conflict and disaster. To this end, it should:

- Ensure that the current RSG's successor (to assume office in September-October 2010) is an experienced and strong advocate for IDPs.

- Ensure that h/she enjoys the same access to the UN's senior political and humanitarian offices as Walter Kälin did. Although the replacement may well be a Rapporteur of the Human Rights Council and not an RSG, h/she will need the same strong working relationships with OCHA, UNHCR, the IASC and other humanitarian and development agencies to do the job effectively.

- Ensure that there is an independent institution ready to support the work of the mandate (a role the Brookings Institution played for the first two RSGs). The position is a voluntary one to which OHCHR provides only limited support. Yet to effectively perform h/her job, the representative or rapporteur must undertake a substantial number of missions, organize international meetings, publish studies and reports, and engage in other international advocacy work.

- Provide political and financial support and encourage other donor governments to do the same to support the work of the mandate.

- Convey to OHCHR the unique nature of the IDP mandate. To date, OHCHR has viewed the varied mandates of the Human Rights Council as the same, meriting the same human and financial resources. But they are quite different. Many prepare studies of single country situations or of thematic issues like counterterrorism, whereas the RSG must respond to the needs of more than 26 million persons throughout the world uprooted by conflict and tens of millions more by natural disasters who are in destitute, life threatening conditions; h/she must then try to mobilize national, regional and international efforts to protect and assist them especially in situations that do not capture broad international attention.

[348] Interviews with UN staff, 2009.

- Evaluate the role of the current position and whether a full-time, paid person with sufficient staff and resources would better be able to serve as a catalyst for international response to internal displacement worldwide and then decide where the position could best be placed.

Support greater civilian protection by UN peacekeepers

The US can help improve UN peacekeepers' ability to protect civilians in the following ways: [349]

- Insist upon clear Security Council mandates with achievable objectives for peacekeeping missions involving civilian protection.

- Encourage the UN Secretariat and the Department of Peacekeeping Operations (DPKO) to identify the full range of resources needed for missions and the "real" budget required to fully equip and staff the missions to provide civilian protection.

- Promote priority consideration to civilian protection in peacekeeping missions (Refugees International has found that civilian protection "is rarely the core priority of any UN peacekeeping mission." [350]).

- Promote the development of more "doctrine" on civilian protection for UN peacekeepers so that protection can become more readily operational within peacekeeping missions.

- Insist that 'integrated missions,' in which humanitarian and development components are part of the peacekeeping effort, work to protect humanitarian space, give a high degree of autonomy to humanitarian operations for IDPs and other affected populations, and seek to reconcile as best possible political objectives with humanitarian and development imperatives.[351]

- Ensure better training for UN peacekeepers to help them more effectively identify and respond to threats to IDPs and other civilians, both in conflicts and natural disasters.

[349] See for example, Refugees International, *Last Line of Defense*, pp. 6-7.

[350] Refugees International, "Report: US Must Increase Support to UN Peacekeepers to Protect Civilians," 24 February 2010.

[351] See Espen Barthe Eide, Anja Therese Kasperson, Randolph Kent, and Karin von Hippel, *Report on Integrated Missions: Practical Perspectives and Recommendations*, Independent Study for the Expanded Core Group, May 2005, Oslo, NUPI, 2005, p. 14.

- Offer experienced personnel (staff officers, medical and engineering units) and specialized equipment (including armored vehicles, helicopters and intelligence gathering tools) in support of peacekeepers.

- Consistently pay peacekeeping dues in full and on time.

Recognize the importance of helping IDPs behind insurgent lines

Many IDPs and other civilians can be found behind insurgent lines in dire conditions and inaccessible to reach other than through dialogue with the insurgents. Jan Egeland, the UN's former Under-Secretary-General for Humanitarian Affairs called such dialogue "a humanitarian necessity," [352] even when it was with insurgents branded as "terrorists," because it can bring relief aid to beleaguered communities, lessen abuse of civilians and help maintain cease-fires.[353] Balancing concerns about conferring legitimacy on insurgent groups with humanitarian imperatives, the US should promote strategies to reach IDPs trapped in insurgent areas, whether directly through cross border operations or through support for ICRC and other organizations that are able to access them.

Promote the application of the "responsibility to protect" (R2P)[354] to IDPs

The US should seek to make sure that when the UN applies the concept of R2P to situations in which there are IDPs, the protection umbrella should extend beyond the emergency phase of the crisis to encompass safe and sustainable solutions for those displaced. In Kenya in 2008, when the Secretary-General applied the concept, in collaboration with the AU and with US support, R2P did succeed in stopping the violence and mass displacement. But the application failed to address the suffering of displaced people in the *aftermath* of the violence. By most accounts, the government of Kenya arbitrarily closed the IDP camps irrespective of whether or not areas of return were secure and even today thousands remain in temporary settlements and transit sites without proper shelter, medicine and food.[355] In such situations, the US should remind the international community that R2P also entails a "responsibility to rebuild" [356] and that its application must encompass a strategy for protecting IDPs after they are uprooted and

[352] See G. McHugh and M. Bessler, *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners*, UN Office for the Coordination of Humanitarian Affairs, January 2006.

[353] Jan Egeland, *A Billion Lives: An Eyewitness Report from the Frontlines of Humanity*, Simon & Schuster, 2008, pp. 57-58, 203, 209, 214.

[354] See supra note 261.

[355] See Jacqueline Klopp and Nuur Mohamud Sheekh, "Can the Guiding Principles make a difference in Kenya?," *Forced Migration Review*, December 2008, pp. 19-20; Internal Displacement Monitoring Centre, *Global Overview of Trends and Developments in 2008*, p. 43; and IDP Action, Statement on World Refugee Day, 20 June 2009.

[356] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, 2001, available at www.iciss-ciise.gc.ca

assure safety and sustainability in areas of return, resettlement and reintegration.[357] To its credit, the UN Peacebuilding Commission did fund a small community volunteer program in the Rift Valley to provide basic services and help prepare the groundwork for returns,[358] but the Peacebuilding Commission should be encouraged to play a much bigger role in the reintegration of displaced populations and the laying of foundations for sustainable peace.[359]

Support the inclusion of IDPs in peace processes

The sheer scale of displacement in some countries is so significant and accounts for such a large proportion of the population that it is simply unrealistic to plan for a stable and peaceful future without incorporating the needs of the displaced into peace agreements and involving the displaced in consultations. In Sudan, one of the reasons the Darfur Peace Agreement of 2006 failed to bring peace to the region was that it was drafted without adequate consultation with IDPs and civil society. As a result, most IDPs and rebel groups rejected the agreement. The US was heavily involved in that process and should make sure in future that in peace negotiations displaced populations are adequately consulted and when appropriate given a seat at the table.[360]

Develop a more multilateral humanitarian response

Since 2003, thirty-six governments, including the US, have endorsed principles of Good Humanitarian Donorship to ensure rapid and non-discriminatory delivery of humanitarian aid in emergencies.[361] However, the UN Under-Secretary-General for Humanitarian Affairs has pointed out that international humanitarian response "is still a Western-dominated enterprise and one which urgently needs to be adapted to reflect the realities of the 21st century."[362] He and others have called for a broader humanitarian response in which non-traditional donors participate and which recognizes "the many new Southern NGOs and the fact that many NGOs now dwarf UN agencies in terms of operational capacity, budget and size."[363]

---

[357] See Roberta Cohen, "Reconciling R2P with IDP Protection," *Global R2P*, Vol. 2, Nos.1/2, 2010.

[358] UN Peacebuilding Fund, Bulletin No. 5, January 2009, p. 2.

[359] See for example, Walter Kälin, "Durable solutions for internally displaced persons: an essential dimension of peace-building," Statement before the UN Peacebuilding Commission, 13 March 2008.

[360] See Abigail Hauslohner, "Sudan; Displaced Darfuris seek seat at peace talks," Reuters, 12 September 2007; Brookings-Bern Project on Internal Displacement, *Addressing Internal Displacement, in Peace Processes, Peace Agreements and Peace-Building*, September 2007; and Walter Kälin, "Internal Displacement in Peace Processes," 25 March 2010, at http://www.brookings.edu/speeches/2010/0325_internal_displacement_Kälin.aspx

[361] The principles include saving lives; assistance according to need (non-discrimination); adequate, predictable and flexible funding; and donor accountability, see http://www.goodhumanitariandonorship.org

[362] Holmes, "Humanitarian action," supra note 325, p. 5.

[363] Holmes, *ibid*. See also Egeland, *A Billion Lives*, supra note 353, pp. 219-220.

The involvement of more donors would of course help the US and other Western countries to reduce their own financial commitments, and it would enable more displaced and vulnerable populations to receive assistance. As a matter of priority, therefore, the US and the EU should begin to encourage a more multilateral humanitarian response. One non-traditional donor that should be a particular focus is China. Although it is not currently a major humanitarian donor, nor one of the subscribing governments to the good humanitarian donorship principles, its expanding influence internationally has impact on the international humanitarian response. Of particular concern has been China's reluctance to place conditions on humanitarian and development aid to countries openly flouting international humanitarian standards (e.g., North Korea, Sudan, Burma) and its politicization of the aid offered to its own people (e.g., refusing to accept emergency help from non-Asian states during its 2008 earthquake).[364] Discussions with China and other potential donors should encompass: a) the basic rules that should apply to humanitarian access and the delivery of humanitarian aid; b) grounds for conditionality in providing aid, including to ensure that aid reaches the beneficiaries; c) the obligations of donor governments to the victims of conflict and disaster; and d) whether refusal to accept aid when lives are at stake constitutes arbitrariness and an impediment to the right to life.[365] Without China's and other non-traditional donors' adherence to the precepts of 'good humanitarian donorship,' international assistance to displaced persons and host communities could too easily become de-linked from long-standing principles or viewed as 'neo-colonialist' action.

[364] Roberta Cohen, 'Disaster Standards Needed in Asia,' Brookings Northeast Asia Commentary, June 2008.
[365] See Walter Kälin, *Guiding Principles on Internal Displacement: Annotations,* American Society of International Law and Brookings Institution Project on Internal Displacement, 2000, pp. 64-5.

CONCLUDING OBSERVATION

Because the US is the world's largest single donor to humanitarian emergencies, the Obama Administration has the opportunity to make a difference in the lives of countless millions of uprooted people and in turn contribute to the establishment of peace and development in countries beset by conflict and disaster. Both humanitarian and security concerns make it essential for the US to join forces with other nations and to modernize and revamp those of its own long-standing laws, policies, resource mechanisms, institutional arrangements and aid programs that are outdated and no longer meet their intended goals. Taking these steps should reinvigorate American leadership in the humanitarian arena and serve this country and many others mightily in circumscribing the conflicts and disasters that will inevitably afflict the 21st century.

Brookings-Bern Project on
Internal Displacement

1775 Massachusetts Avenue, NW
Washington, DC 20036
USA
(T) +1 (202) 797-6168
(F) +1 (202) 797-2970
brookings-bern@brookings.edu
www.brookings.edu/idp