

KEYNOTE ADDRESS

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Political Rights of Persons Displaced by Conflict

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Mr. Chairman, Excellencies, Ladies and Gentlemen,

First let me express my appreciation to the International Organization for Migration for inviting me to the Colloquium and for focusing our attention on this important issue of the political rights of persons displaced by conflict. All too often in the human rights and humanitarian community when we talk about conflict we focus only on emergency humanitarian needs. We fail to recognize that protection goes beyond ensuring the survival and physical security of displaced persons.

There are an estimated 24 million persons internally displaced by conflict in the world today and millions more displaced by natural disasters and development projects. Each of these displaced persons is entitled to the protection of *all* relevant guarantees provided by international human rights and humanitarian law. Whether in emergency or protracted conflict situations, protection encompasses the full range of economic, social and cultural as well as civil and political rights. Among these rights is the right to participate in the political affairs of a country, the right to vote, the right to freedom of assembly and association, and to freedom of expression. Protecting these rights allows displaced persons to play an active role in shaping their own future and that of their nation. Rather than a luxury in conflict or post-conflict situations, political participation can effectively contribute to peace, recovery and to long-term development. Thus, taking political rights seriously, including the right to vote and take part in elections and referenda is highly relevant to societies trying to emerge from conflict and build a more stable and prosperous future. At the same time, the right of internally displaced persons (IDPs) to vote may be jeopardized for the simple reason that in most countries one has to cast the ballot at one's place of residence or origin, i.e. a place IDPs by definition cannot go to as long as they are displaced.

The right to vote is a human right. The human rights and humanitarian law applicable to the internally displaced is set forth in the Guiding Principles on Internal Displacement. Presented to the Commission on Human Rights in 1998, the Principles apply to persons displaced by conflict, as well as generalized violence, violations of human rights, and natural or human-made disasters. They address all phases of displacement and encompass all categories of rights, including the rights to security, to food and to shelter, as well as

the rights to life, freedom of movement and freedom of expression. The Guiding Principles are not a binding legal document. However, they have been recognized as authoritative at the international, regional and national levels. In September 2005, the Heads of State who gathered in New York for the UN Summit unanimously recognized the Guiding Principles as an important international framework for the protection of internally displaced persons.

Principle 22(1) (d) of the Guiding Principles recognizes the right of IDPs to be protected from being “discriminated against as a result of their displacement in the enjoyment”, inter alia, of ‘*the right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right.*’ Other Guiding Principles are also pertinent (Principles 22(1) (a) and (c)) as they stress that even if one is displaced one retains the right to freedom of thought, conscience, religion or belief, opinion and expression, and the right to associate freely and participate equally in community affairs. Each of these Principles is based on the International Covenant on Civil and Political Rights as well as regional human rights instruments.

The Human Rights Committee, of which I am a member, and which monitors compliance with the Covenant, has taken a position on the right of IDPs to vote. It issued a General Comment affirming that: ‘*States must take effective measures to ensure that all persons entitled to vote are able to exercise that right*’ (General Comment 25(57)). When examining the periodic report of Colombia, the Committee addressed the voting rights of the displaced and expressed concern about the difficulties experienced by internally displaced persons in exercising their right to vote (see CCPR/CO/80/COL, para. 19). The Committee monitoring the Convention on the Elimination of All Forms of Racial Discrimination also referred to the political rights of the internally displaced when considering the report of the Russian Federation. It noted with satisfaction the assurances given by the State that displaced persons would be allowed to vote in an upcoming referendum (see CERD/C/62/CO/7, para 9).

IDPs, unlike refugees, are displaced within the borders of their own country. As such, they retain the privileges of citizenship, including the right to vote and to participate in governmental and public affairs as set forth in the Guiding Principles. However, as we have heard throughout this Colloquium, there are many barriers to the exercise of this right by IDPs. The Brookings Project on Internal Displacement has issued a substantial report on this subject. During my own missions, I have come across some of these barriers and challenges. In Bosnia and Herzegovina, for example, I became aware that in some municipalities, minority returnees are indirectly excluded from voting in elections because of the limited information made available to them, or the lack of transportation, and that many Roma IDPs are excluded from voting as they lack the required documentation. Similarly, in Nepal, an absence of relevant legal guarantees, inadequate registration and therefore a lack of relevant documentation create a risk that IDPs will not be able to participate in elections. In the case of Côte d’Ivoire it will be of paramount importance to ensure that IDPs will be able to participate in the forthcoming elections. Here too, the key challenge is proper registration of the many non-registered IDPs.

The responsibility for protecting and assisting IDPs, including the protection of their fundamental rights, rests with national authorities. However, when governments lack the capacity to meet this responsibility, the international community has the right, and even possibly the responsibility, to extend support to the displaced. Yet, in the area of political participation, the involvement of international organizations in protecting IDPs has been sporadic at best. The examples given by participants in this Colloquium of the displaced being unable to exercise their political rights attest to the lack of attention paid to this issue by the international community. However, that is not to suggest that the issue is always ignored. Last year in Liberia, for example, the National Election Commission with the assistance of the UN Mission in Liberia registered IDPs to vote in the national elections. And as we speak, in the Democratic Republic of the Congo, the UN is working with national authorities to prepare for the country's first nationwide elections, due to be held this Sunday. Here they face great challenges including trying to access remote areas of the country where many of the near 2 million IDPs are located.

At the regional level, the involvement of regional organizations has been similarly varied. The Organization for Security and Cooperation in Europe has been the most active in addressing the political rights of IDPs. Its Office for Democratic Institutions and Human Rights, through election monitoring and technical assistance programs, has, in a number of cases, devoted attention to IDP voting rights, especially at the field level. Such efforts have also contributed to identifying the need for national legislative reform. Indeed, in some states, governments have worked to bring their electoral laws into line with regional and international commitments to ensure the fair and equal political participation of IDPs – most notably Georgia, which revised its electoral law in 2003.

Building on the examples provided by the OSCE and other organizations engaged in the issue, all relevant international as well as regional organizations need to develop targeted and comprehensive programs aimed at addressing the political rights of IDPs. Such programs may involve working with national authorities to draft laws and policies that aim to protect the political rights of IDPs. Indeed, I am developing, in consultation with a group of experts, a manual that will provide parliamentarians and policy makers with detailed guidance on how to make the Guiding Principles operational at the domestic level. One chapter of the Manual will be devoted to political rights and will serve as a practical tool for use by national authorities and international experts in developing comprehensive laws and policies on the political participation and voting rights of IDPs.

At the level of legislation, problems include: regulations that exclude IDPs over prolonged periods from the possibility of voting for local authorities in their place of displacement; legal obstacles to IDPs registering to vote; and lack of provisions for absentee voting.

Once laws and policies have been developed to ensure IDPs' rights to political participation, attention must be given to the implementation of these laws and policies. Discriminatory practices regarding registration of IDPs, obsolete and restrictive residence certifications, insecure voting areas, lack of transportation to polling stations and acts of

intimidation are problems that must be addressed in order for laws and policies on political participation to have practical effect. It is at this stage too, at the level of implementation, that the international community as well as regional organizations can play an important role.

Measures to safeguard the electoral rights of IDPs and ensure their sustainability in countries with internal displacement thus include: (1) amending electoral laws to allow IDPs to be registered as voters and to participate in elections without discrimination;(2) providing training and technical assistance to electoral commissions; (3) sensitizing international as well as domestic election observers on the specific challenges faced by IDPs; and (4) including in checklists of international electoral missions IDP related issues during all stages of the electoral process.

The IOM, by convening this Colloquium, has taken an important step to enhance the international response to protecting the political rights of the displaced. It is my hope that this meeting will raise further awareness of the challenges faced by the displaced in exercising their rights and that recommendations will be made on how we, as the international community, can more effectively and comprehensively work with national authorities to remove barriers and obstacles to the exercise of political participation. As I mentioned at the outset, political participation is not a luxury in times of conflict. Through the ballot, through political debates and open discussions a consensus for peace can be built, reducing reliance on arms and violence, thereby helping to bring an end to conflict.