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THE GLOBAL IDP SITUATION IN A CHANGING HUMANITARIAN CONTEXT

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Introduction

Allow me to start by thanking the organizers – and especially Mirna Yacoub – for inviting me to this important workshop. I am honored to be here and to be making this opening presentation.

A few words about my affiliation: I am Deputy Director of the Brookings-Bern Project on Internal Displacement, based at the Brookings Institution in Washington DC. For over a decade our Project has worked directly in support of the mandate of the Representative of the UN Secretary-General on IDPs. The current mandate holder is Professor Walter Kälin and his full title is Representative of the Secretary General on the Human Rights of Internally Displaced Persons. Our Project provides policy analysis and research for the RSG (as he is known) – for example we have recently completed major reports on 'Protracted IDP Situations' and 'IDPs and Peace'.

Agenda

In my presentation I'd like to do three things. Principally, I'll provide a general introduction and overview of the current situation of internal displacement, the rights of IDPs and the changing humanitarian context. Second, given the special relationship between our Project and the RSG, I'll say a few words about his mandate and how he fulfills it, although my colleague Karen Gülick, who works directly with the RSG from

Geneva, will have to more to say about this in the first panel after lunch. Finally I'd like to flag what I see – and this will very much be a personal perspective – as some of the key debates surrounding internal displacement today. I'll try to be brief to allow plenty of time for questions and discussion.

Who is an IDP?

The standard definition of an IDP is that used in the Guiding Principles on Internal Displacement – about which more later – which defines internally displaced persons as: "…persons or groups of persons who have been forced or obliged to flee or 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 internally recognized state border."

There are, therefore, two defining characteristics of an IDP: first the coercive or involuntary character of movement, and second that movement takes place within national borders.

Let me make two wider observations on the definition: First, unlike the refugee definition, the definition of an IDP is descriptive as opposed to legal. Like the Guiding Principles as a whole, the IDP definition has not been negotiated or agreed by states in a binding treaty, and has no formal legal standing. On the other hand the Guiding Principles – and the definition – are widely recognized as an international standard.

Second, note that the IDP definition is much broader and more inclusive than the refugee definition. Whereas the 1951 Convention narrowly covers people fleeing persecution on five specified grounds, the IDP definition covers people fleeing for a range of reasons including natural disasters. Some argue that the refugee definition is too narrow and exclusive – equally some argue that the IDP definition is too wide and inclusive.

The current situation

A health warning needs to be posted around all data on IDPs. There are conceptual and practical reasons why it is virtually impossible to be either accurate or precise in counting IDPs. Conceptual challenges include distinguishing who is and is not an IDP, and working out when displacement comes to an end. Perhaps the most important practical challenge has to do with access – IDPs are often not in camps, they can be mixed in with urban populations, or be in areas controlled by non-state actors, and so on.

According to the Internal Displacement Monitoring Centre – also represented at this meeting – there are about 24 million people displaced internally by conflict alone. We really have no idea how many more people are displaced internally for reasons other than conflict, but some estimate that it is the same number again. An immediate observation is to contrast the number of refugees in the world today – about 10 million according to UNHCR, with the number of IDPs – perhaps 50 million.

Focusing only on conflict-induced IDPs, there are about 12 million in Africa, 4 million in the Americas, 3 million in Asia, 3 million in Europe and about 3 million in the Middle East. Internal displacement really is a global phenomenon. The largest internal displacement situations today are in Sudan (5 million), Colombia (2-3 million), Iraq (2 million and growing), Uganda (1.5 million) and the Democratic Republic of Congo (1.1 million).

Major new displacements in the last year have taken place in the Lebanon and Israel, Democratic Republic of Congo, Central African Republic, and Iraq. At the same time there have been significant returns of IDPs since 2006 in Sudan (mainly in the South), Israel, Lebanon, DRC, and Uganda.

Vulnerability

It is probably the case that in some situations IDPs are not the most vulnerable civilians affected by conflict. In some cases IDPs at least have the resources, the wherewithal and the social networks that allow them to get out of harm's way, arguably sometimes leaving behind even more desperate and vulnerable people. I'm sure my colleague from the ICRC will speak to this issue when she presents in the next session.

Nevertheless, the limited research – and there is still a big research gap on IDPs – suggests that in most cases IDPs do have special needs. Problems usually not faced by those who stay in their homes include: lack of shelter and problems related to camps; loss of property and access to livelihoods; discrimination as a result of being displaced; lack of identity cards and other documentation; lack of access to services; lack of political rights; restitution of or compensation for lost property; and problems related to return and reintegration.

As a result IDPs are often especially vulnerable. They can run a higher risk than those remaining at home to: have their children forcibly recruited; become victims of gender-based violence; suffer psycho-social problems; become separated from family members; be excluded from education; and be unemployed. They probably also face a higher risk of losing their property, especially their homes. Women IDPs can be especially vulnerable, for example to gender-based violence, rape, prostitution and trafficking; as can IDP children to separation from their families, abuse, sexual exploitation and forced recruitment.

The Guiding Principles on Internal Displacement

The rights of IDPs are articulated in the Guiding Principles on Internal Displacement. Before providing more detail on the Guiding Principles, let me outline some of the conceptual ideas behind them. First, unlike refugees, IDPs have not left their country therefore, apart from in exceptional circumstances they are displaced in countries where they are still citizens. IDPs – unlike refugees – thus have the same rights as all other citizens. Second, and as a result, to apply refugee law to IDPs would be inappropriate.

That would have the effect of limiting the rights of citizens. Third, and as I've already discussed, IDPs usually have special needs. Fourth, there is sufficient provision in international human rights law and international humanitarian law to protect IDPs – new law is not required. Finally, what is required, however, is a restating of existing legal provisions which respond to the specific needs of IDPs, and their articulation in order to facilitate their application in situations of internal displacement. This is what the Guiding Principles on Internal Displacement do.

Some background to the Guiding Principles: In 1992 the mandate of the Representative of the UN Secretary General on Internal Displacement was created. The first representative was Dr. Francis Deng. In 1994 he was requested to elaborate "an appropriate normative framework'. In 1988 the Guiding Principles were presented to the United Nations Commission on Human Rights. And in 2005 they were recognized at the World Summit as an 'important international framework for the protection of IDPs."

I don't have time to go through the Guiding Principles in detail - you all have copies of the document. But do let me emphasize perhaps the key point in the entire document – that responsibility for protecting and assisting IDPs is primarily that of the state in which they are displaced and of which they are citizens.

There are 30 principles; and they are divided into five sections – general principles, protection from displacement, protection during displacement, humanitarian assistance and return and resettlement. They have been translated into over 40 languages and widely disseminated around the world.

But let me also reiterate something I said in passing earlier: the Guiding Principles are not legally binding. They are intended to do exactly what it says on the cover – to provide a set of principles to guide a national response to internal displacement.

The role of the international community

There is no single UN agency with an IDP mandate. Indeed the purpose of this workshop is to understand what roles and responsibilities different agencies have assumed, where there is overlap and where there are gaps, and to discern a specific role for UNICEF.

For the last twenty years or so there has been cooperation on IDP issues between a range of agencies, especially UNHCR, UNDP, WFP, UNICEF and WHO, and this was loosely formalized in the so-called collaborative approach. The criticism was that this approach was *ad hoc*, and did not represent an effective response to a growing problem. As a result, and as you are all aware, the humanitarian reform initiative of 2005 introduced a new cluster approach which assigns sectoral responsibilities. Briefly these are as follows: Protection – UNHCR in conflict settings and UNHCR/OHCHR/UNICEF in natural disasters; Camp Management – UNHCR in conflict settings and IOM in natural disasters; Emergency Shelter – UNHCR in conflict settings and IFRC in natural disasters; Nutrition – UNICEF; Water and Sanitation – UNICEF; Health – WHO; Early Recovery – UNDP; Logistics – WFP; Telecommunications – OCHA/UNICEF/WFP; Agriculture – FAO;

Education – UNICEF. And as you also know, there has been particular debate over the idea that as well as coordinating a response on their designated sector, these agencies should also take responsibility as "provider of last resort" if all else fails.

It has become almost axiomatic to say that it is still too soon to assess whether the cluster approach is proving effective, which I personally find unacceptable over a year after it started being piloted. I was interested to read a recent "real time evaluation" of the cluster approach by UNHCR in Liberia, which highlighted the following strengths and weaknesses. Strengths included: strong participation and increased protection. Weaknesses included: adjusting the cluster approach from the relief to the development phase; maintaining a role for national governments; and a failure to focus on non-returning IDPs. This is one example and I'm sure we'll hear more over the next few days from people working on the ground about their experiences of the cluster approach.

On the topic of the international response let me make one final remark. Largely as a result of the cluster approach, almost all of our attention for the past year has focused on the UN. But it is important not to forget that there are other important international actors too, from NGOs (who also participate in clusters) to regional intergovernmental organizations.

The challenge is not just coordination between different UN agencies, but also between UN agencies as a whole and all these other actors.

The Representative on IDPs

The Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons has an overall mandate to strengthen the international response to internal displacement through international advocacy, dialogue with governments, NGOs and other relevant actors; to mainstream the human rights of IDPs in the UN system; and to promote the Guiding Principles.

The strategy that the RSG has adopted to achieve his mandate has four elements: strengthening the normative framework, for example through supporting the incorporation of the Guiding Principles into national laws and policies; enhancing the political will to protect especially through missions and working visits to affected countries; developing the capacity to protect, for example through publishing manuals and handbooks and offering training courses and technical advice; and maintaining the flexibility to respond to new challenges especially through policy-oriented research.

Current debates

Allow me to conclude by flagging what I see as some of the main current debates around IDPs. These might form the basis for our discussion afterwards.

First, there is an ongoing debate over whether protecting and assisting IDPs is in effect privileging displacement over vulnerability. Certainly I think more research is required to

establish what the special needs of IDPs are and in what circumstances they no longer exist. And it is also probably true that more advocacy is also needed on the part of other war-affected civilian populations.

Second, whereas we have spent much of the past decade debating who is an IDP, I think we may spend the next decade debating who is not an IDP. For example, are people displaced by development projects IDPs? What about those relocated after the clearance of squatter settlements? The breadth and purely descriptive nature of the IDP definition may pose challenges for operationalizing the concept.

Third, should the international community be moving towards a binding treaty on internal displacement? I have a clear perspective on this debate: there is no political will to develop a binding treaty; most states would not sign it; and even if they did many might not be held to account. The Guiding Principles strike me as an innovative "bottom-up" approach that has been remarkably effective and might provide a model for responding to other global issues.

Fourth: the cluster approach or a single UN agency? Again my perspective is driven by realism – I can't envisage for the foreseeable future any existing agency assuming total responsibility for IDPs, and I certainly can't envisage the creation of a new UN agency. The cluster approach is sensible on paper, but we need to keep on monitoring and evaluating it on the ground.

Finally, when does internal displacement end? This is a more difficult question to answer than it might first appear. For refugees the answer is fairly straightforward: when their status is withdrawn by invoking a cessation clause; when they achieve a different status for example by becoming citizens of a new country; or when they return home. But IDPs have no formal legal status to be withdrawn; they are already citizens of the country where they are displaced; and as citizens they have every right not to go home once it is safe to do so. To try to answer this particular question, the Brookings-Bern Project and the RSG have developed a framework for identifying the end of displacement, which has been welcomed by the UN's Inter-Agency Standing Committee. These are already available on our website and will soon be published, and I think they provide a useful starting point for grappling with this important question.

Thank you for listening.