Addressing Internal Displacement in Peace Processes, Peace Agreements and Peace-Building

September 2007

Foreword by the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons

Resolving internal displacement – and preventing future displacement - is inextricably linked with achieving lasting peace. On one hand, unresolved problems of displacement may cause instability and thus threaten peace processes as well as peace-building efforts. On the other hand durable solutions, particularly return, cannot be achieved for internally displaced persons as long as there is a lack of security; property is not restored; and conditions for sustainable solutions – including reconciliation between local communities and returnees, post-conflict reconstruction and the re-establishment of the rule of law and a legitimate government – are not in place.
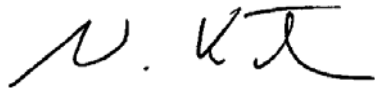
Yet it has become apparent to me, during my many missions and working visits to post-conflict countries around the world, that internally displaced persons are rarely consulted or represented in peace processes; their particular circumstances are often overlooked in the language of peace agreements; and peace-building initiatives often marginalize or forget them. Drawing on an extensive review of recent peace negotiations, this report provides concrete recommendations – to governments; UN agencies; and NGOs and civil society, for including internally displaced persons – or at least their priorities – in peace processes; drafting peace agreements to address their concerns; and realizing their potential during peace-building.

I am pleased to endorse this latest publication from the Brookings-Bern Project on Internal Displacement. Through providing policy analysis and research the Project directly supports my mandate as Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons. I co-direct the Project with Brookings Senior Fellow Elizabeth G. Ferris.

Besides supporting my own mandate, I hope this report will be widely circulated and used by governments and regional organizations; UN and other international agencies; NGOs and civil society; and researchers and students. It should also have a special relevance for international mediators, the drafters of peace agreements, and monitors of

peace processes. While it is unlikely that the report itself will reach many internally displaced persons, I hope its recommendations can make sure they are better protected and assisted as they try to reconstruct their lives after conflicts.

This report draws on a wide range of sources, including two separate reports commissioned by the Brookings-Bern Project, prepared by Patricia Weiss Fagen at the Institute for the Study of International Migration of Georgetown University and William O'Neill in his capacity as a consultant. Section Five is partly based on a submission I made to the Peacebuilding Commission in May 2006. An earlier draft of the report, funded by the Swiss Federal Department for Foreign Affairs, was presented at two expert seminars in New York and Geneva, and I am very grateful for the valuable input provided there. This final report was prepared by Khalid Koser at the Brookings-Bern Project.

Walter Kälin
Representative of the UN Secretary-General on the
Human Rights of Internally Displaced Persons

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Executive Summary

1. The aim of this report is to consider how the issue of internal displacement can best be integrated into peace processes, peace agreements and peace-building.

2. Internally displaced persons have rights grounded in international human rights law and international humanitarian law; and states in post-conflict situations have an obligation to protect those rights.

3. Resolving displacement is inextricably linked with achieving peace, especially where the scale of displacement is significant. Helping displaced populations to return and reintegrate can simultaneously address the root causes of a conflict and help prevent further displacement. IDPs often have needs that are different both from refugees and other war-affected civilian populations, and thus they require special attention in peace processes. There is also growing momentum within the UN system to address internal displacement in peace processes and agreements and peace-building, in particular through the new Peacebuilding Commission.

4. Examples of direct IDP participation in 'track-one' peace processes are rare, as a result of three main obstacles. One is the exclusive and high-level structure of most 'track-one' processes. A second is that displaced populations often have specific disadvantages - they may belong to minority groups and lack resources, education, political skills and influence. Third, IDPs specifically have additional disadvantages – they are often scattered; lack an international regime to support their rights; and may be more vulnerable to reprisals from their government where they do mobilize.

5. Equally there may be times when the participation of IDPs in formal peace negotiations is not desirable as it can entail risks for the displaced. Alternatively displaced populations can be associated with, or fuel through their presence, 'spoiling' tactics that can hinder, delay or undermine peace processes.

6. An alternative is to participate in 'track-two' and 'track-three' peace processes, especially through forming coalitions with other groups excluded from formal negotiations, for example women's groups. NGOs have an important role to play in supporting coalitions for peace. A danger is that the specific concerns of IDPs can be subsumed within the wider agenda of a coalition, and also that it may be easier for formal parties to exclude coalitions than have to deal with different specific lobbies.

7. Especially where IDP participation is not possible, effective or desirable, it is important to develop complementary strategies for representing their interests in peace processes. One is for international mediators to prompt political leaders to incorporate displacement issues in peace negotiations, but consultation with IDPs is critical. A second complementary strategy is to focus on the legal rights of IDPs through international, regional and national mechanisms, including through the mandate of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons.

8. It is important that peace agreements contain specific provisions for displaced populations. The report reviews how displacement has been addressed in recent agreements in Bosnia, Burundi, Cambodia, Georgia, Guatemala, Kosovo, Liberia, Macedonia, Mozambique, Sierra Leone, and Sudan as well as in the Great Lakes Peace Pact, and identifies good practice. Four areas in particular need specific attention within the text of agreements:

- Clear definitions that distinguish between refugees and IDPs, refer to standard international definitions, clarify locally-used terms, are inclusive in coverage, and recognize regional displacement specificities;
- Guarantees of the parties' cooperation in the process of finding durable solutions for the displaced, including a commitment to guaranteeing safety and security both during and after return, specific language on how security will be provided, and sanctions against people who violate the rights of the displaced;
- A specific enumeration of the rights of displaced persons, including general human rights; the right to choose return, local integration or resettlement elsewhere in the country; rights as citizens; and the right to documentation and property; and
- The definition of an implementation process, including the establishment of a responsible body, the definition of a funding mechanism, and procedures for cooperating with the international community

9. Despite positive efforts to address internal displacement in recent peace agreements, commitments are often not fulfilled for reasons such as poor drafting, insufficient implementation mechanisms and funding, a lack of political will, more pressing priorities like demobilization, and specific obstacles like landmines. Compliance with commitments to IDPs in peace agreements requires systematic monitoring and their priorities need to be mainstreamed in the peace-building phase.

10. Finding durable solutions for the displaced is a necessary element of effective peace-building. The following issues are particularly relevant for displaced persons and returnees:

- Providing security through demobilization, de-mining, re-establishing the rule of law, and combating impunity;
- Solving property-related problems including reconstruction and restitution of property, resolution of property related disputes and reparations when restitution is not possible;
- Furthering reconciliation between local communities and returnees;
- Transitional justice;
- Undertaking post-conflict reconstruction i.e. re-establishing basic infrastructure and services as well as ensuring access to services, resources and livelihoods; and
- Ensuring the political transition to and the establishment of an effective and legitimate government in which the various sectors of society, including IDPs and returnees, can become stakeholders

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11. There is a wide range of actors with roles and responsibilities in peace-building, including national governments, National Human Rights Institutions, the international community and civil society, all of which have the potential to mainstream internal displacement in their work.

12. The UN Peacebuilding Commission represents a unique institutional opportunity to mainstream IDPs and their priorities in peace-building efforts worldwide. As implementing durable solutions for IDPs is an integral component of peace-building, the Peacebuilding Commission should seek ways of ensuring that governments and the international community address the concerns of the displaced.

13. The report makes the following recommendations:

Including internal displacement in peace processes

To 'track-one' actors:

- Directly include where possible and appropriate legitimate representatives of displaced populations in formal peace negotiations, with particular attention to including not only refugee but also IDP representatives, and to ensuring gender balance

- Convene separate formal consultations on displacement-specific issues with representatives of displaced populations where their direct participation in peace negotiations is impossible or inappropriate

- Support 'track-two' and 'track-three' processes and guarantee no reprisals against any individuals or organizations that participate in these processes

- Ensure that the outcomes of 'track-two' and 'track-three' processes are taken into account and included in formal negotiations

- Include UNHCR and other relevant international agencies in 'track-one' negotiations where displacement issues are discussed

- Where possible and appropriate visit IDP camps to gain direct insights into the situation of IDPs

To NGOs and civil society actors including displaced people's organizations

- Establish democratic structures to nominate legitimate representatives of displaced populations to take part in formal 'track-one' negotiations or 'track-two' processes

- Consult with IDPs to develop a list of priority issues for the peace negotiations which are important to and supported by the IDP community

- Identify specific obstacles to the political mobilization of IDPs and develop strategies to overcome them

- Help establish or support civil society coalitions for peace through funding, training and capacity-building and work to ensure that these broad coalitions include displacement-relevant issues

- Encourage local-level conflict resolution mechanisms that include displaced populations

- Raise public awareness about the need to address displacement issues

- Monitor the inclusion of displacement issues in peace processes and call attention to the fact when they are not

To international mediators
- Ensure that internal displacement issues, where relevant, are properly addressed in peace negotiations

- Provide complete and accurate information, where possible, to displaced populations concerning negotiations over their concerns

- Consult, wherever possible, with the legitimate representatives of displaced populations properly to understand their needs and priorities. When this is not possible, consider using alternative means of ensuring that displaced people's concerns are taken into account

To UN agencies and other international actors

- Mainstream in peace processes the normative framework for the protection of the rights of displaced populations

- Provide information on displacement issues to 'track-one' actors

- Participate in peace processes to raise awareness of displacement issues and support IDP representatives

To the UN Department of Political Affairs Mediation Support Unit

- Ensure that internal displacement issues are properly integrated in developing lessons learned and best practices for mediation

- Develop a handbook for mediators specifically addressing internal displacement

- Include internal displacement in training for 'standby teams' of mediation experts

To the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons

- Emphasize in dialogue with national governments the obligation to respect the human rights of internally displaced persons in post-conflict situations, and to work towards preventing displacement in the future

- Emphasize in dialogue with national governments, regional organizations, NGOs and civil society the direct link between addressing internal displacement and achieving lasting peace

- Where possible, target at least one country mission per year on a post-conflict country

- Mainstream the human rights of internally displaced persons in UN agencies and bodies with responsibility for peace processes, peace agreements and peace-building

Good practice in addressing internal displacement in peace agreements

To peace agreement drafters:

- Ensure that agreements fully incorporate displacement issues, including through:
    - Recognizing the differences between refugees and IDPs
    - Using language that firmly guarantees the parties' cooperation in implementing durable solutions for IDPs
    - Enumerating the rights of IDPs
    - Defining an unambiguous process for implementation, funding mechanisms and cooperation with the international community

- Ensure gender equality and the inclusion of the rights of IDP children and displaced minorities

To national authorities:

- Identify a clear framework for the implementation of commitments to displaced populations, an unambiguous allocation of responsibilities, adequate resources and an appropriate monitoring and evaluation mechanism

- Establish a resettlement or rehabilitation commission or comparable mechanism to coordinate and oversee implementation of commitments on durable solutions

- Establish a National Human Rights Institution where they do not already exist and encourage existing NHRIs to oversee the protection of human rights during implementation

To UN agencies and other international actors:

- Analyze possibilities for durable solutions and provide information to 'track-one' negotiations

- Co-ordinate in-country monitoring on conditions for durable solutions, in particular return processes and problems faced by returnees

Mainstreaming internal displacement in peace-building

To national authorities

- Systematically address the issue of finding durable solutions for internally displaced persons and returning refugees when dealing with issues including security, reconstruction, reconciliation, and political transition

- Develop a strong human rights regime that addresses the full range of needs of returnees, including their right to reparations for having been the victims of forced displacement and their rights to political participation

- Incorporate the Guiding Principles on Internal Displacement into national legislation

- Ensure property restitution or compensation for returnees. In this respect, the following key indicators are important:

  o Repeal of any laws and regulations which are inconsistent with international legal standards relating to the rights to adequate housing and property;

  o Non-application of laws which are designed to, or result in, the loss of tenancy, use, ownership or other rights connected with housing, land or property;

  o Establishment of efficient dispute settlement mechanisms.

  o Removal of obstacles preventing the successful recovery of refugees' and IDPs' properties.

- Address obstacles to IDP participation in elections

- Support NHRIs and civil society groups to play an active role in monitoring the return of displaced persons and identifying problems which may arise

To NHRIs

- Monitor return conditions for IDPs

- Conduct inquiries into reports of violations of IDPs' human rights

- Investigate complaints particularly regarding compensation or restitution for property, and discrimination against returnees

- Monitor and report on the implementation of peace agreements with particular regard to their provisions for durable solutions

- Advise the government on the rights of IDPs

To civil society

- Raise awareness of the particular protection and assistance concerns of IDPs

- Support the education of local elected representatives and strengthen the role of local leaders to ensure that they are able to respond to the particular needs of IDPs

- Ensure a ready flow of information to displaced populations about durable solutions

- Monitor and report on the implementation of peace agreements with particular regard to their provisions for durable solutions

To the Security Council

- Explicitly integrate internal displacement issues into the terms of reference of Security Council visits and missions to post-conflict countries and regions

- Incorporate internal displacement issues explicitly into the mandates of all peacekeeping missions

- Mainstream IDPs in the reporting of UN special missions and international observers

- Ensure that all peace accords brokered by the UN systematically and explicitly address the consequences of the armed conflict on internally displaced populations, their contributions to the peace process and their needs and priorities in the post-conflict context

- Systematically and explicitly address relevant internal displacement issues in all Secretary-General's reports to the Security Council, and for that purpose prepare and disseminate a guidance note on the integration of internal displacement in reports of the Secretary-General to the Security Council

- Monitor and report on internal displacement issues in peacekeeping

- Establish awareness of and capacity to address internal displacement issues as a requirement for senior staff in peace operations, for example, Special Representatives of the Secretary-General, Force Commanders, Chief Administrative Officers, Special Envoys and peace negotiators

To UN agencies

- Ensure that development plans support durable solutions for the displaced

- Support IDP reintegration through specific programs for example targeting food security; household income generation; access to basic services; and availability and access to infrastructure and markets

- Decentralize programs to reach IDPs in remote and neglected areas

- Work with both returning IDPs and non-displaced communities to which they return in order to avoid resentment

- In efforts to restore the rule of law, ensure that the rights of IDPs to property restitution are upheld

- Pay particular attention to the needs and vulnerabilities of female-headed IDP households

To the Peacebuilding Commission

- Emphasize durable solutions for IDPs in all states on its active agenda

- Encourage its members and states on its active agenda to incorporate the Guiding Principles on Internal Displacement in national laws and policies

- Provide ongoing oversight, monitoring and assessment of peace-building activities with attention on IDPs

- Mainstream internal displacement in its coordination activities for relevant UN agencies, international financial institutions and other bodies

- Advise the Security Council on how to address IDPs in its future resolutions on particular country or thematic issues

List of Acronyms

CHA   Consortium of Humanitarian Agencies (Sri Lanka)

CIREFCA   International Conference on Central American Refugees

CNRS   National Commission for the Rehabilitation of Sinistrés (Burundi)

CODHES   Conferencía Episcopal De Colombia - Consultoria para los Derechos
                Humanos y el Desplazamiento

CONDEG   National Council of Displaced Guatemalans

CPA   Comprehensive Peace Agreement (Sudan)

CPDIA   Permanent Consultation on Internal Displacement in the Americas

DDR   Demobilization, Disarmament and Reintegration Programs

DPA   United Nations Department of Political Affairs

ECOSOC   UN Economic and Social Council

ECOWAS   Economic Community of West African States

EU   European Union

FRELIMO   Mozambican Liberation Front

ICCN   International Center on Conflict and Negotiation

ICG   International Crisis Group

ICHRP   International Council on Human Rights Policy

IDMC   Internal Displacement Monitoring Centre

IDPs   Internally displaced persons

IGAD   Intergovernmental Authority on Development

IOM   International Organization for Migration

MINUGUA   UN Mission on Verification of the Guatemalan Peace Accords

NCP	National Congress Party (Sudan)
NGO	Non-governmental organization
NHRI	National Human Rights Institutions
NRC	Norwegian Refugee Council
OAS	Organization of American States
OCHA	UN Office for the Coordination of Humanitarian Affairs
OECD	Organization for Economic Co-operation and Development
OHCHR	Office of the UN High Commissioner for Human Rights
ONUMOZ	UN Operations in Mozambique
ONUHAC	UN Humanitarian Assistance Coordination Office
OSCE	Organisation for Security and Cooperation in Europe
RENAMO	Mozambican National Resistance
RSG	Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons
SPLMA	Sudan People's Liberation Movement Army
SRSG	Special Representative of the UN Secretary-General
SSRDF	Southern Sudan Reconstruction and Development Fund
TESEV	Turkish Economic and Social Studies Foundation
UN	United Nations
UNAMSIL	UN Mission in Sierra Leone
UNDP	UN Development Programme
UNHCR	Office of the UN High Commissioner for Refugees
UNIFEM	UN Development Fund for Women

UNMIL	UN Mission in Liberia
USAID	US Agency for International Development
USCR	US Committee for Refugees
USIP	US Institute of Peace

1. INTRODUCTION

1.1 Aim and objectives

The overall aim of this report is to consider how the issue of internal displacement can best be integrated into peace processes, peace agreements and peace-building. It has three specific objectives:

(i) To assess how internally displaced persons (IDPs) can most effectively participate in and contribute to peace processes; and where their participation is not effective, possible or desirable, to examine alternative or complementary methods for representing their needs in peace processes;

(ii) To identify good practice for the inclusion of internal displacement issues in the text of formal peace agreements; and

(iii) To establish the reasons why internal displacement should also be mainstreamed in peace-building efforts, including considering the potential role in this regard for the United Nations (UN) Peacebuilding Commission.

1.2 Why it matters

There are a number of reasons why resolving internal displacement is inextricably linked with achieving peace. One is that IDPs – like all other war-affected civilians – have rights grounded in international human rights law and international humanitarian law; and states in post-conflict situations have an obligation to protect those rights.

In some countries the sheer scale of displacement is so significant and accounts for such a large proportion of the national or sub-regional population that it is simply unrealistic to plan for the peaceful future of the country without incorporating the needs of the displaced and ensuring their active participation. At one point in northern Uganda, for example, there were some 1.7 million people displaced, accounting for 90 percent of the population of that region.[1]

Helping displaced populations to return and reintegrate can simultaneously address the root causes of a conflict and help prevent further displacement.[2] Specifically: the return of displaced populations can be an important signifier of peace and the end of conflict; return can play an important part in validating the post-conflict political order, for example by legitimizing elections; the return of the displaced can be a pre-condition for peace if they are politically active; and the return of displaced populations can also make

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[1] Miller, J. (2006) Uganda's IDP Policy, *Forced Migration Review*, 27, p.78
[2] RSG (2007) *Internal Displacement and Peacebuilding: A Contribution to the Discussion*, submission to the Peacebuilding Commission

an important contribution to the recovery of local economies.[3] Furthermore, in many countries, whether willingly or unwillingly, some IDPs have become party to conflict, and their inclusion is therefore necessary for conflict-resolution.

One reason why it is important to focus on the specific category of IDPs in the context of peace is that they often have needs that are different both from refugees and other war-affected civilian populations. More often than refugees, IDPs remain close to the zone of conflict and thus more vulnerable to violence; the provision of humanitarian assistance to IDPs is often more difficult than for refugees; and unlike refugees, IDPs are not singled out for specific protection in international law. Similarly, IDPs often have particular vulnerabilities not encountered by other civilians in armed conflict: they need shelter; may be unable to replace or receive identity and other official documents; and often encounter serious problems regaining land and property left behind.[4]

More widely, broad-based civil society participation in political processes (including peace) is increasingly seen as good practice. A variety of UN and other international conventions and agreements, for example, recognize the rights of children, youth and women to participate in political decision-making processes that affect their lives. Although not legally-binding, Principle 22(d) of the UN Guiding Principles on Internal Displacement also asserts the rights of IDPs to political participation, while Principle 28(2) states that: 'Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement.'[5] Civil society – including IDPs – should be encouraged to participate not just as means of exercising their rights, but also because they often have significant contributions to make, for example as 'peace connectors' and catalysts.

While IDPs and their concerns are increasingly specifically mentioned in contemporary peace agreements, certain problems still tend to recur. One is that sometimes the language used is too vague and non-committal to be followed through. Another is that at times IDPs are mentioned in transitory agreements but then expunged from the texts of final accords. Also, even where IDPs and their concerns are specifically mentioned in the text of final peace agreements, commitments are rarely fully implemented.

A final reason why it is important to focus on how to address internal displacement in peace processes and agreements and peace-building, is growing momentum within the UN system. The former Sub-Commission on the Prevention of Discrimination and the Protection of Minorities[6], the Security Council[7] and the former Commission on Human Rights[8] all called for the inclusion of refugees and IDPs in peace processes. In his address to the UNHCR Executive Committee in 2005 former Secretary-General Kofi Annan

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[3] International Council on Human Rights Policy (ICHRP) (2006) *Negotiating Justice? Human Rights and Peace Agreements*, Geneva: ICHRP
[4] RSG (2007) see *supra* note 2
[5] *Guiding Principles on Internal Displacement,* CN.4/1998/53/Add.2
[6] Sub-Commission on the Prevention of Discrimination and Protection of Minorities, Resolution 1998/26
[7] UN Security Council Resolution 1325 on Women, Peace and Security (S/RES/1325-31 October 2000), paragraph 8(a)
[8] Commission on Human Rights Resolution 2005/46

emphasized that: 'The return of refugees and internally displaced persons is a major part of any post-conflict scenario…Indeed it is often a critical factor in sustaining a peace process and in revitalizing economic activity'.[9]

There are also new institutional opportunities. One is the new Peacebuilding Commission, which has a mandate to marshal resources for; advise on; support and coordinate the development of integrated strategies for post-conflict peace-building and recovery. A specific role for the Peacebuilding Commission in mainstreaming internal displacement issues in peace-building initiatives is proposed later in this report.

1.3 Methodology

This report draws on a number of other reports on related issues prepared or commissioned by the Brookings-Bern Project on Internal Displacement[10]; specially commissioned country case studies on Colombia, Georgia, Sri Lanka and Sudan[11] (summaries of which are attached in Annex I); a review of additional peace processes and agreements in Bosnia, Burundi, Cambodia, El Salvador, Guatemala, Kosovo, Liberia, Macedonia, Mali, Mozambique, Nepal, Rwanda, and Sierra Leone, as well as the Great Lakes Pact on Security, Stability and Development; mission reports of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons (RSG) and his predecessor; and an extensive range of secondary sources which are listed in the bibliography in Annex II[12]. There is a distinct lack of literature specifically on the participation of IDPs in peace processes, and so at times this report draws on a wider literature on the mobilization for peace of civilian populations – especially women. These various sources have been systematically analyzed with a focus on previous experiences of incorporating internal displacement in peace processes and agreements and peace-building; successes, failures, and lessons learned; and specific recommendations.

An earlier draft of this report was presented at two expert workshops in New York hosted by the Permanent Mission of Switzerland to the United Nations (June 2007) and in Geneva hosted by the Geneva Centre for Security Policy (July 2007). Invited experts as well as participants from a range of governments, UN agencies and other international organizations, and NGOs provided detailed comments which have been incorporated in this final text.

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[9] UN Secretary-General's address to UNHCR Executive Committee, Geneva, 6 October 2006
[10] Bradley, M. and Stark, C. (2005) *Addressing Internal Displacement in Peace Processes and Peacebuilding*; Fagen, P.W. (2007) *Peace Process and IDP Solutions*; O'Neill, W. (2006) *IDPs and Peacebuilding*
[11] Consortium of Humanitarian Agencies (2006) *Internal Displacement and Effective Integration into the Peace Process*; Deng, D. (2006) *IDPs and the Implementation of Sudan's Peace Process*; International Center on Conflict and Negotiation (ICCN) (2006) IDPs and Peace Processes in Georgia; Vidal López, R. (2006) *Informe de Investigación sobre la Participación de los desplazados internos dentro de los procesos de Paz en Colombia: ¿Cuál participación? ¿Encontró alguna?*
[12] Sarah Meyer and Erin Williams provided invaluable assistance in reviewing existing literature

1.4 Structure of the report

After this Introduction the report has four main sections. The next section defines IDPs, explains the concept of peace adopted in this report, and outlines the intersections between IDPs and peace that frame the remainder of the report. It also justifies the specific focus in this report on IDPs. Section Three focuses on alternative ways to include IDPs and their priorities in peace processes. Drawing on previous cases, good practice for addressing internal displacement in peace agreements is developed in Section Four. The final section explicates the links between resolving internal displacement and peace-building, outlines the roles and responsibilities of a variety of actors, and focuses in particular on the potential for the UN Peacebuilding Commission to mainstream internal displacement issues in its global work on peace-building. Specific recommendations on peace processes, agreements and peace-building, for a variety of stakeholders, are proposed at the end of the report.

2. INTERNALLY DISPLACED PERSONS AND PEACE

2.1 Internally displaced persons

The UN Guiding Principles on Internal Displacement define IDPs 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'.

Current estimates indicate that over 24 million people are internally displaced by wars and conflicts[13] - with many millions more displaced by natural disasters and development projects. This is a figure far higher than the 9.9 million refugees currently registered by the Office of the United Nations High Commissioner for Refugees (UNHCR).[14]

2.2 Peace

There is a striking lack of consensus over what 'peace' actually comprises and the specific terminology that is applied to its various phases.[15] This report distinguishes three phases and refers to them as peace processes, peace agreements and peace-building. For the sake of clarity these are considered discretely and sequentially in this report, although in reality they can overlap in time. In particular it is often suggested that peace-building

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[13] Internal Displacement Monitoring Centre (IDMC) (2006) *Internal Displacement: Global Overview of Trends and Developments*, Geneva: IDMC
[14] UNHCR (2007) *Global Trends*, Geneva: UNHCR
[15] Bell, C. (2000) *Peace Agreements and Human Rights*, Oxford: Oxford University Press

needs to start before the end of a conflict, and should be an ongoing endeavor while negotiations take place.

Peace processes are viewed as '…a political process in which conflicts are resolved by peaceful means…They are a mixture of politics, diplomacy, changing relationships, negotiation, mediation, and dialogue in both official and unofficial arenas'.[16] Within the peace process phase, a further distinction is made between 'track-one' or official government diplomacy; 'unofficial' or 'civil' or 'track-two' processes that involve conflict resolution specialists, private citizens, non-governmental organizations (NGOs) or businesses[17]; and 'track-three' processes that refer to unofficial interventions at the grassroots level by people from all walks of life and sectors of society who find ways to promote peace in settings of violent conflict.[18] The report also considers local-level, national and regional peace processes as well as the role of international mediators.

Peace agreements are formal treaties intended to end or significantly transform violent conflict. The main types are: cessation of hostilities or ceasefire agreements; pre-negotiation agreements; interim or preliminary agreements; comprehensive and framework agreements; and implementation agreements.[19]

Peace-building is the phase that takes place after violent conflict has slowed down or come to a halt. It consists of a wide range of activities including capacity-building, reconciliation and societal transformation; and is therefore a long-term process.[20] Peace-building is a critical phase of peace which consolidates the progress made in peace processes and fulfils the commitments in peace agreements, and without proper attention to peace-building, conflicts can quickly re-ignite.

2.3 Internally displaced persons and peace

That resolving internal displacement is inextricably linked with achieving peace has already been established. On one hand, unresolved problems of displacement may cause instability and thus threaten peace processes as well as peace-building efforts. On the other hand durable solutions, particularly return, cannot be achieved for IDPs as long as there is a lack of security, property is not restored, and conditions for sustainable solutions are not in place.

The question that nevertheless arises is whether it really is justified to focus attention specifically on IDPs in the context of peace processes, peace agreements and peace-

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[16] Saunders, H. (2001) *Turbulent Peace*, Washington DC: US Institute for Peace
[17] Nan, S. (2003) 'Track I Diplomacy', in G. Burgess and H. Burgess (eds) *Beyond Intractability*, Boulder: Conflict Research Consortium, University of Colorado
[18] Chigas, D. (2003) 'Who are Track Two Intermediaries and Diplomats?', in G. Burgess and H. Burgess (eds) *Beyond Intractability*, Boulder: Conflict Research Consortium, University of Colorado
[19] Yawanarajah, N. and Ouellet, J. (2003) 'Peace Agreements' , in G. Burgess and H. Burgess (eds) *Beyond Intractability*, Boulder: Conflict Research Consortium, University of Colorado
[20] Maiese, M. (2003) 'Peacebuilding', in G. Burgess and H. Burgess (eds) *Beyond Intractability*, Boulder: Conflict Research Consortium, University of Colorado

building. The case is sometimes made, for example, that they should be conceived as part of the wider civilian population affected by armed conflict. Yet even though IDPs are not always necessarily worse off than non-displaced populations, there is considerable evidence that they have specific needs and face special vulnerabilities rarely encountered by other people affected by conflict.[21]

In this context it is worth distinguishing issues in peace processes and agreements and peace-building that are displacement-specific from those that are displacement-relevant. The former address exclusively or at least primarily the needs of displaced persons and returnees; whilst the latter address the needs of the civilian population in general but also impact on displaced persons and returnees.

Displacement-specific issues are directly linked to the fact that affected persons have moved away from their places of residence and cannot – as long as the cause of their displacement persists – return there. Only IDPs: need shelter away from their homes and protection against being forcibly returned to danger zones; have lost and encounter difficulties regaining livelihoods and property left behind; face difficulties in replacing documents that can only be obtained from the authorities at the place of habitual residence; or are unable to register as voters because this too can only be done in the place they have left. In the context of peace processes, peace agreements and peace-building, four problems that do not exist for non-displaced populations are critical for IDPs:

- Finding durable solutions based on the free choice to return voluntarily, integrate locally or resettle elsewhere in the country;
- Restitution of or compensation for property left behind;
- Protection against discrimination either during or after displacement on the basis of having been displaced; and
- Ensuring that those who have not yet returned to their places of origin can participate in post-conflict elections or referenda.

Displacement-relevant issues – such as the re-establishment of the rule of law, humanitarian de-mining or the reconstruction of basic services – usually address the needs of the civilian population in general while at the same time also respond to the particular vulnerabilities of displaced persons and returnees. In some circumstances these issues can become displacement-specific: for example de-mining is displacement-specific if its purpose is to open up a return route or if it covers an area that has been totally de-populated by conflict.

At the same time it is important to ensure that displacement-specific activities are not neglected because of the assumption that the needs of IDPs are automatically covered by measures addressing the situation of the civilian population in general.[22] For example, the integration of militias into the regular armed forces may be one way to begin to restore

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[21] Mooney, E. (2005) The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern, *Refugee Survey Quarterly*, 24(3): 9-26
[22] RSG (2007) see *supra* note 2

safety to the country in general, but if they remain in an area where they were responsible for displacing people who dare not return while they are still present, it becomes a solution that ignores the specific circumstances of the displaced.

2.4 Tensions

It is sometimes argued that 'undoing' a conflict's effects by returning displaced persons can be counter-productive to the search for peace. One way this can occur is where return and efforts to secure land justice risk re-writing the territorial compromises that can underpin certain peace processes. Return can undo one side's territorial conflict gains and lay the foundation for renewed conflict – the recent history of conflict in Burundi provides one example of this. Second, returning refugees and displaced persons can lead to instability, for example where land disputes have not been settled and where there is inadequate infrastructure to cope with return.[23] Finally, it has been suggested that refugees – and also IDPs – who do not return can assist the economic recovery of local economies by sending home economic support, which will therefore be undermined by return.

Equally, however, solutions aimed at local integration or settlement elsewhere in the country, instead of return, may contribute to legitimizing the objectives of 'ethnic cleansing', which can in turn jeopardize sustainable peace.

These tensions should not be a reason not to include IDPs or their concerns in peace processes and agreements. Instead the tensions need to be understood, anticipated and provided for in the design and implementation of peace processes and agreements and peace-building initiatives. In particular: There must be adequate provision for the modalities of return. Where return is not possible, there must be clear alternatives for displaced persons such as local integration or resettlement elsewhere. It is important to emphasize that, as citizens of the country where they are displaced, IDPs have the right to choose whether they return or settle elsewhere in the country. Land redistribution issues should be resolved in a constructive and timely manner. Finally, a strong human rights regime needs to be established to ensure that neither returnees nor local populations become victims after return, which can risk reigniting a conflict.[24]

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[23] Huckerby, J. (2004) 'Transitional Justice and Treatment of Refugee Returnees Suspected of Criminal Offences: East Timor and Beyond', Center for Human Rights and Global Justice Working Paper, Transitional Justice Series, Number 9
[24] ICHRP (2006) see *supra* note 3

3. INCLUDING INTERNAL DISPLACEMENT IN PEACE PROCESSES

3.1 'Track-one' participation

The Guatemalan peace process is a rare example of the formal participation of refugees, and to a lesser extent IDPs, in a 'track-one' process. In 1987, Guatemalan refugees in Mexico organized themselves into Permanent Commissions (*Comisiones Permanentes*), dedicated to achieving a 'collective and organized return'.[25] The mobilization of the refugees in this way was particularly noteworthy as many were from traditionally poor, marginalized and excluded groups and they were not always fluent in Spanish. Furthermore, and contrary to culture and tradition, female refugees played a leading role in the movement.

In 1992, after protracted negotiations and with the help of UNHCR, the October 8 Accord was signed between the Government of Guatemala and the Permanent Commissions. In addition to guaranteeing compliance with already existing constitutional rights, the Accord ensured specific benefits, exemptions and mechanisms for returnees to acquire land. The first collective return took place in January 1993 and was largely organized by the Permanent Commissions.

The negotiating parties subsequently completed a total of 11 separate peace accords over the course of three years and the negotiations included consultations with refugee and, to a lesser extent, IDP organizations. The negotiating pattern reproduced many of the elements used in relation to the earlier negotiations between the refugees and the government;[26] and the peace accords are noteworthy for their inclusive and rights-based approach to displaced populations.

What are the lessons that can be learned from the Guatemalan example? One straightforward observation is that the participation of displaced populations in formal peace negotiations is possible and can be effective. In this regard it is particularly worth noting the catalytic role played by the international community – in this case by UNHCR. At the same time, it has to be acknowledged that the mobilization of refugees in the peace negotiations was far more organized and effective than that of the IDPs.

Second, it also has to be noted that displaced populations were brought to the negotiating table at the behest of guerilla groups in Guatemala. Refugees and IDPs are not necessarily politically-neutral; and can be susceptible to manipulation by various parties.

There may be a third lesson in the sequencing of the Guatemalan negotiations. Negotiations on displacement-specific issues took place before the main negotiations on the peace accords. This separation may be one way to respond to the concern posted earlier of displacement-specific issues being forgotten in peace accords that address the

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[25] Worby, P. (2004) 'Security and Dignity: Land Access and Guatemala's Returned Refugees', *Refuge* 19(3)

[26] Worby, P. (2004) see *supra* note 25

needs of civilian populations in general. Furthermore, it is possible that it was as a result of their performance in the earlier negotiations that the displaced populations sufficiently won the confidence of the negotiating parties to continue to be consulted during the main peace negotiations.

3.2 Obstacles to 'track-one' participation

Guatemala is a rare example. Historically direct IDP (or refugee) participation at the negotiating table has been minimal. Based on analysis of the modalities of previous peace processes, it is possible to discern three main obstacles to IDP participation – although it is worth noting that sometimes these can be used as excuses to exclude IDPs rather than representing genuine reasons.[27] One relates to the exclusive and high-level structure of most 'track-one' processes, or what has been characterized as an 'elite pact-making' approach to peace.[28] Traditional negotiating formats, such as the close proximity negotiations used to finalize the Dayton Agreement, involve a handful of key leaders and foreign mediators. Such high-level negotiations are often seen as the only viable approach for achieving a relatively swift negotiated resolution to armed conflict – and often the short deadlines under which they work also preclude time-consuming consultations. However they lack the specialized contributions and sense of ownership that can be gained through civil society participation. If political solutions are imposed on people, they have less chance of working – and this is one reason why 'track-two' processes are often encouraged in parallel with 'track-one' negotiations.

A second set of obstacles is more practical. It relates to the fact that very often displaced populations have specific disadvantages. They may belong to minority groups and lack resources, education, political skills and influence. Unless they are already organized, they also lack leaders who can represent them. Such obstacles are not insurmountable, and in particular it is worth noting that women's groups have had considerable success in 'track-one' involvement - in Burundi, Afghanistan and Guatemala – ensuring guarantees of women's rights and equal treatment, minimum quotas for women in decision-making fora, and women's rights to property and inheritance.[29] Lessons should be learned from the mobilization of wider civil society groupings for displaced populations specifically.

A third obstacle, however, relates to the particular circumstances of IDPs. As in Guatemala, there are more examples of the mobilization of refugee communities – whether for peace or other purposes – than of IDP communities. The latter often do not live in camps and more scattered; they lack an international regime to support their rights; and may be more vulnerable to reprisals from their government where they do mobilize.

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[27] Anderlini, S.N, (2004) 'Peace Negotiations and Agreements', in International Alert, *Inclusive Security, Sustainable Peace: A Toolkit for Advocacy and Action*, pp.16-32

[28] Barnes, C. (2002) 'Democratizing Peacemaking Processes: Strategies and Dilemmas for Public Participation, in ACCORD, *Owning the Process: Public Participation in Peacemaking*, London: ACCORD

[29] Nakaya, S. (2003) 'Women and Gender Equality in Peace Processes: from Women at the Negotiating Table to Postwar Structural Reforms in Guatemala and Somalia, *Global Governance* 9(4): 459-61

Far more attention needs to be paid to the specific obstacles to IDP mobilization and to developing strategies to overcome them.

3.3 'Track-two' participation

It is exactly because of these sorts of obstacles that parallel 'track-two' initiatives have gained growing legitimacy, for example in Sri Lanka.[30] These provide the means for organizations and individuals normally excluded from high-level 'track-one' processes still to have an input in a process where political parties or parties to the conflict are unlikely fully to reflect their concerns.

On one hand it has to be acknowledged that some advantages of direct participation in 'track-one' negotiations cannot be replaced – for example 'track-one' negotiations usually set the timetable and agenda for peace processes. On the other hand 'track-one' negotiations often rely on 'track-two' processes. During efforts to resolve the border conflict between Peru and Ecuador, and also the Moldova-Transdniestria conflict, particular problems that became intractable during 'track-one' negotiations were referred to 'track-two processes' to resolve – the latter effectively becoming unofficial problem-solving workshops.[31] It is also often the case that participants in 'track-two' processes have special insights into and understandings of conflicts. The presence of NGOs within communities at war and their ability to move among displaced populations and armed forces, for example, are characteristics often not shared by UN agencies and donor governments.[32] Ideally track-two processes should therefore precede and complement track-one negotiations.[33]

At the same time the difficulties of developing capacity for 'track-two' processes and other civil society initiatives should not be underestimated. Despite significant resources to support civil society in Bosnia and Herzegovina, for example, civil society's contribution to peace, tolerance and reintegration there has remained very limited.[34] Similarly a study submitted to the Security Council by the Secretary-General found that even where women have participated in 'track-two' processes (it cited examples in the Democratic Republic of Congo, Kenya, Rwanda, Somalia, South Africa, Sri Lanka, and Sudan) formal peace processes have still failed to take gender perspectives into account.[35]

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[30] CHA (2006) see *supra* note 11

[31] Fisher, R.J. (2006) 'Coordination between Track Two and Track One Diplomacy in Successful Cases of Prenegotiation', *International Negotiation* (11): 65-89

[32] Loescher, G. (2001) 'Refugees as Grounds for International Action, in E. Newman and J. van Selm (eds) *Refugees and Forced Displacement: International Security, Human Vulnerability and the State*, Tokyo: UNU, pp.31-50

[33] Anderlini (2004) see *supra* note 27

[34] Belloni, R. (2001) 'Civil Society and Peacebuilding in Bosnia and Herzegovina', *Journal of Peace Research*, 38(2):163-80

[35] UN (2002) *Women, Peace and Security*, Study submitted by the Secretary-General pursuant to Security Council resolution 1325

The review for this report has found no examples of IDP-specific 'track-two' processes; however there are a number of examples where IDPs and other displaced populations have participated in wider 'track-two' initiatives.

The Peace and Reconciliation Agreement, signed on 28 August 2000 between the Tutsi-dominated government of Burundi and mainly Hutu opponents, provides an example of how 'track-two' negotiations can incorporate displaced populations and have a significant impact. Neither IDPs nor refugees participated directly in the series of negotiating sessions held in Arusha during the 1990s that preceded the comprehensive agreement. Displaced women did, however, participate in the All-Party Burundi Women's Peace Conference, also in Arusha, in July 2000. This conference resulted in a series of recommendations on issues related to women, a number of which were incorporated into the final peace agreement, including special measures to ensure the safe return and reintegration of displaced women and children.[36] At least in part because of this input, the Burundi peace agreement, like the Guatemalan agreement, held equitable return and reintegration to be a central goal.

During the Liberian peace process displaced populations' organizations also developed direct links with several women's organizations to promote peace. Their collective influence is reflected in the 2003 Comprehensive Peace Agreement[37] where the clause ensuring '…that the needs and potentials of the war victims are taken into account' is followed by '…and that gender balance is maintained in apportioning responsibilities for program implementation.' (Article XXXI: 3). In Georgia too IDP organizations have formed coalitions with women's groups in 'track-two' peace processes, especially with the Coalition of Women's NGOs of Georgia, and Women's Unity for Peace[38].

Coalitions with women's groups would appear to be a particularly fruitful tactic. With the support of the UN, women have prominently organized as peace-makers in Africa and the Balkans in recent years[39], and have won places at the negotiating table in several countries.[40]

One reason why it can be strategic for displaced populations to engage in wider 'track-two' processes rather than develop their own specific initiatives is because of the added leverage of a broader coalition – this is especially the case given the obstacles to mobilizing IDPs explained above. On the other hand, IDP-specific issues can easily be subsumed within the wider demands of coalitions. This has been a concern for some IDP organizations in Colombia, which have resisted formal coalitions with victims' groups in

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[36] Mooney, E. (2007) 'Protecting and Reintegrating Displaced Women and Children Post-Conflict', in M. Ndulo (ed.) *Security, Reconciliation and Reconstruction in Africa: When the Wars End*, Ithaca, Cornell: University Institute for African Development; UNIFEM (2000) *Proceedings of the All-Party Burundi Women's Peace Conference*, New York: UNIFEM

[37] Comprehensive Peace Agreement, 18 August 2003

[38] ICCN (2006) see *supra* note 11

[39] UN Security Council Resolution 1325 on Women, Peace and Security, October 31, 2000, Annex 4, 8.

[40] See UNIFEM, *Women, Peace and Security: UNIFEM Supporting Implementation of Security Council Resolution 1325*, October, 2004 and the published reports of Women Waging Peace (Hunt Alternatives) on roles of women in peace movements and advancing women's issues within peace negotiations.

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order to maintain a focus on their priorities of settlement rights and reparations.[41] Furthermore, as has also been the case in Colombia, it can be easier for formal parties to peace processes to marginalize or exclude coalitions from the process rather than resist pressure from numerous separate lobbies.[42]

In the above examples of Burundi, Liberia, and Georgia IDP groups joined with local NGOs to form broad coalitions for peace. There is also a role in 'track-two' processes for international NGOs in facilitating displaced populations to mobilize in 'track-two' processes. Between 2002 and 2003, for example, the Canadian NGO *Inter Pares* facilitated a dialogue between formerly displaced Guatemalan women peacemakers and displaced Burmese women working for peace from the Thai-Burma border. The exchange highlighted the common challenges shared by displaced women, and enabled the Burmese participants to learn from the peace strategies adopted by their Guatemalan counterparts.[43] Similarly 'track-two' peace processes between Georgian and Abkhazian civil society was facilitated by the British NGO International Alert; and the Georgian-Ossetia 'track-two' process was initiated through a multilateral meeting organized by the Conflict Management Group (USA) in cooperation with International Center on Conflict and Negotiation (ICCN) (Georgia) and hosted by the Norwegian Refugee Council (NRC) in Oslo in January 1996[44].

3.4 'Track-three' initiatives

'Track-three' or 'grassroots' initiatives also can play an important role in peace processes, and probably provide the greatest scope for direct participation by IDPs.

Advantages of 'track-three' processes can be to encourage ownership of the peace process at the local level and to provide a safety net, in that if formal negotiations stall progress can still made at the local level. In Mali, for example, after years of unsuccessful government efforts to negotiate peace, traditional decision-making activities and community meetings were facilitated by civil society leaders and resulted in localized ceasefire agreements in the north of the country.[45] 'Track-three' participants can also have access at the local level denied to 'track-one' and even 'track-two' participants – in the Democratic Republic of Congo and Colombia, for example, women were able to negotiate certain agreements directly with militia groups on issues such as humanitarian aid passage.[46] Peace processes at the local level can also create conditions for peace processes at the national level. This has been the case in Sudan, where 'people-to-people' peace processes between the *Dinka* and *Nuer* in 1999 and the *Ngok Dinka* and *Missiriya* Arabs in 2000 made negotiation possible across the North-South border.[47] Furthermore it

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[41] Vidal López, R. (2005) see *supra* note 11
[42] Vidal López, R. (2005) see *supra* note 11
[43] Inter Pares (2003) 'Building the Road Home', *Inter Pares Bulletin* 25(4)
[44] ICCN (2006) see *supra* note 11
[45] Lode, K. (2002) 'Mali's Peace Process: Context, Analysis and Evaluation', in ACCORD, *Owning the Process: Public Participation in Peacemaking*, London: ACCORD
[46] Anderlini (2004) see *supra* note 27
[47] Deng, D. (2007) see *supra* note 11

has also been argued that the success of outside intervention in peace processes depends on the extent to which it connects with local peace initiatives.[48]

Grassroots efforts have often been one of the main outlets of women's peace activities.[49] The Wajir Women's Association for Peace in Kenya, for example, engaged in grassroots advocacy with elders and men to end violence; provided training and loans to ex-militia; and established the Wajir Peace and Development Committee, with measurable reductions in violence as a result.[50]

Again examples of IDP participation in 'track-three' processes are rare. One is provided in Angola, where the Angolan Centre for Common Ground has engaged IDPs in local peace activities through theatre productions, dialogue groups, and radio soap operas focused on IDP issues. The Centre has sought to enhance the capacity of IDPs through training in conflict resolution, the Guiding Principles on Internal Displacement and Angola's national legislative framework on internal displacement. With ongoing support from the NGO, IDPs who have participated in these programs have taken on leadership roles in local conflict resolution and have trained other IDPs in mediation techniques.[51]

Such initiatives are significant because, as the previous RSG noted, 'Over the long term, activities facilitating conflict resolution and reconciliation at the local level among different cultural, ethnic and religious groups can contribute to the security of IDPs as well as their eventual return to their areas of origin'.[52] More often, however, there is no clear impact of 'track-three' processes upon national level peace processes, and alone they cannot be argued to be a reliably effective way to ensure that IDP concerns are represented in full-scale peace processes or agreements.

3.5 The need for alternatives to direct participation

There are a number of reasons why at times it may be necessary to find alternatives to the direct participation of IDPs in 'track-one', 'track-two' and 'track-three' processes, or complementary strategies to boost the effects of direct participation. First, many of the more practical obstacles that hinder the participation of IDPs in 'track-one' processes also apply to 'track-two' and 'track-three' processes – lack of education, resources and political skills; and so on. Even where IDPs do participate directly, these disadvantages may weaken their voice and raise the need for complementary strategies.

Second, the mobilization and participation of IDPs can entail risks for the displaced. In Colombia, for instance, armed actors have used threats, assassinations and

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[48] Juma, M.K. (2002) *Unveiling Women as Pillars of Peace: Peace-building in Communities fractured by Conflict in Kenya*, New York: UNDP

[49] Marshall, D.R. (2000) *Women in War and Peace: Grassroots Peacebuilding*, USIP Peaceworks 34

[50] Juma, M.K. (2002) see *supra* note 48

[51] Utterwulghe, S. (2004) 'Conflict Management in Complex Humanitarian Situations: Peacemaking and Peacebuilding Work with Angolan IDPs', *Journal of Refugee Studies* 17(2): 222-42

[52] Cited in Cohen, R. and Deng, F. (1998) *Masses in Flight*, Washington DC: Brookings Institution Press, p.259

'disappearances' to dissuade IDPs from mobilizing in pursuit of peace. The Guatemalan Communities of Peoples in Resistance were also targeted by armed forces – although the threat diminished after the formation of the National Council of Displaced Guatemalans (CONDEG).

A third reason is that often IDPs do not have democratic structures to nominate representatives, so that *de facto* leaders may emerge with political goals that do not necessarily represent the interests of the majority of the displaced. In Georgia, for example, certain self-appointed IDP leaders have incited violence and raised false hopes of imminent return, both of which have detracted from the peace process.[53]

Finally, the direct participation of IDPs and other displaced populations can be associated with 'spoiling' tactics that can hinder, delay or undermine peace processes. There are several prominent examples of 'spoilers' among refugee populations including the Afghan *mujahidden*, *Khmers Rouges* in Thailand and Nicaraguan *Contras* in Central America.[54] The review of peace processes undertaken for this study has only found one example of IDPs as 'spoilers', namely in Georgia where in 2000 the 'track-two' peace process was disrupted by hard-line groups within the Georgian IDP community led by Tamaz Nadareishvili, Head of the Abkhazian Government-In-Exile, and protesting against the conciliatory tone adopted in negotiations and the specific policy proposal for 'temporary integration'.[55]

Instances have additionally been found where prioritizing the rights of displaced populations has fuelled spoiling tactics on the part of other actors in the peace process. One of the reasons for Bosnian Croat war veterans' associations to try to 'spoil' the peace process in Bosnia and Herzegovina, for example, revolved around the issue of refugee return.[56] The possibility of 'spoiling' either by or as a result of the presence of IDPs or their priorities is not a reason to omit them from the agenda of a peace process. It may, however, be a reason to find alternatives to their direct participation, or complementary strategies.

3.6 Complementary strategies

Where IDPs themselves cannot effectively participate in peace processes, what are complementary strategies for making sure that their needs and priorities are still included in the process? The review of past peace processes suggests two main options.

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[53] Hansen, G. (1999) 'Displacement and Return', in J. Cohen (ed.) *A Question of Sovereignty: the Georgia-Abkhazia Peace Process*, London: Conciliation Resources

[54] Loescher, G., Milner, J., Newman, E., Troeller, G. (2007) *Protracted Refugee Situations and the Regional Dynamics of Peace-building*, United Nations University Policy Brief - Draft

[55] ICCN (2006) see *supra* note 11

[56] Bojicic-Dzelilovic, V. (2006) 'Peace on Whose Terms? War Veterans' Associations in Bosnia and Herzegovina, in E. Newman and O. Richmond (eds) *Challenges to Peacebuilding: Managing Spoilers during Conflict Resolution*, Tokyo: UNU Press, pp. 200-19

First, international mediators can prompt political leaders to incorporate displacement issues in peace negotiations. The Mozambican peace talks, for example, were convened by the Catholic Community of Sant' Egidio in Rome, with the support of church officials in Mozambique. These church representatives saw themselves as advocates for civilians suffering the brunt of the war, and encouraged FRELIMO and RENAMO to address IDP concerns in their agreements. Similarly, the facilitators of the Dayton peace talks pushed the negotiators to accept ambitious provisions on return and restitution designed to 'reverse' ethnic cleansing.[57]

A recent publication by the International Council on Human Rights Policy (ICHRP)[58] provides guidelines for mediators to incorporate human rights generally, and the rights of displaced populations specifically, into peace negotiations. These are reproduced in Annex III. For the purposes of discussion here, two aspects of these guidelines are worth highlighting. First, they urge that already at the stage of peace negotiations and in advance of formal peace agreements, proper consideration be given to issues such as security for returnees, their property rights, vulnerable groups among them, and monitoring of the return process. Second, the guidelines emphasize that options are available to negotiators depending on local circumstances. At times, for example, it may not be necessary formally to include displacement issues in formal agreements, if displaced populations have already returned or successfully resettled elsewhere. Alternatively at times it may be more appropriate to deal with these issues outside formal negotiations and agreements, as a side matter.

The new Mediation Support Unit of the UN Department of Political Affairs (DPA) has a particular role to play in 'educating' international mediators to address internal displacement issues. The Unit is intended as a central repository for peacemaking experiences and a clearing house for lessons learned and best practices; and currently co-sponsors with the United States Institute for Peace (USIP) a series of handbooks for mediators covering specific topics. One of the recommendations of this report is that a handbook on internal displacement is developed, to cover some of the specificities of IDP situations not adequately covered in the ICHRP guidelines.

A potential pitfall for strategies that purport to represent the concerns of IDPs is that they may not necessarily accurately reflect the priorities of the displaced – especially excluded groups within displaced populations. Displaced persons, including women and children, have consistently proven to be their own best advocates where given the opportunity. The displaced know their needs and concerns better than anyone else. Where the direct participation of IDPs is neither possible nor desirable, it is important that representations on their behalf take place on the basis of detailed consultations with them. Yet consultation with IDPs over peace processes, as well as other policies that affect them, remains very limited. At best IDP leaders are consulted, but more often than not IDPs are

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[57] Phuong, C. (2000) 'At the Heart of the Return Process: Solving Property Issues in Bosnia and Herzegovina', *Forced Migration Review* 7: 5-8
[58] ICHRP (2006) see *supra* note 3

not even provided with complete and accurate information on decisions that are being made about their future.[59]

A second complementary strategy is to focus on the legal rights of IDPs, especially as advocating for agreed standards should not require direct consultations with those they are designed to protect. There are often international, regional and national mechanisms that can be harnessed to promote the protection of IDP rights as a contribution to the pursuit of peace.

In Colombia, for example, the RSG, Inter-American Commission on Human Rights' Special Rapporteur on IDPs and the Permanent Consultation on Internal Displacement in the Americas (CPDIA) have all advocated for the rights of IDPs. Regional frameworks such as the Andean Regional Initiative have been developed to address the issue of internal displacement. At the national level, the Colombian Constitutional Court ruled in 2004 that the situation of IDPs in Colombia was unconstitutional and urged the government to redress their concerns.

In October 2006 the RSG wrote to the Transitional Government of Nepal and the Communist Party of Nepal (Maoist) in which he outlined items which in his opinion needed to be included in peace negotiations in order to ensure that the human rights of IDPs were taken into account. These included the free choice of IDPs to decide where they want to settle and whether they want to return, a responsibility to guarantee the security of the returnees, the need to ensure that all IDPs could vote, and the need for close consultations with them as to what their options are.[60]

Similarly, the RSG submitted a memorandum to the President and Prime Minister of Serbia, the President of the Provisional Self-Government of Kosovo and the Special Envoy of the Secretary-General for the future status process for Kosovo, concerning the needs and rights of IDPs in the status talks. He underlined the importance of ensuring that IDPs were able to return to their homes in safety and dignity or to integrate locally and that their decisions be made freely on the basis of full information and consultation. He underscored the need to find the means for restitution of or compensation for properties in Kosovo, whose owners resided in Serbia and had been unable to reclaim them. He also highlighted the risk that significant numbers of non-registered IDPs in Serbia could become stateless.

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[59] Borton, J., Buchanan-Smith, M., Otto, R. (2005) *Support to Internally Displaced Persons – Learning from Evaluations*, Stockholm: SIDA

[60] RSG (2006) Report to the UN General Assembly on Protection of and Assistance to Internally Displaced Persons, A/61/276, para. 35

4. GOOD PRACTICE FOR ADDRESSING INTERNAL DISPLACEMENT IN PEACE AGREEMENTS

Peace agreements establish the political, legal and humanitarian obligations governments should assume toward IDPs. In 1989 the International Conference on Central American Refugees (CIREFCA) broke new ground by recognizing forced displacement as a region-wide problem to be addressed in the context of the Central American peace process.[61] During the conflicts, women had achieved significant organization and voice among both refugee and to a lesser extent IDP populations, and consequently gender awareness was also promoted throughout the peace process. The separate peace agreements that followed in El Salvador (1992) and Guatemala (1994) were crafted with a comprehensive definition of victims of displacement and strongly influenced by CIREFCA.

Since the ground-breaking accords in Central America, peace agreements have increasingly sought solutions for displaced persons, including both internally and externally displaced populations. As a result, guidelines have now been developed by the Public International Law and Policy Group for including issues pertaining to refugee return in peace agreements.[62] These guidelines identify four main areas that peace agreements should cover in this regard after the preamble:

- Clear definitions;
- Clear roles and responsibilities of parties to the agreement in relation to durable solutions;
- A specific enumeration of the rights of displaced persons; and
- Definition of an implementation process.

It is important to note that these guidelines and sample language cover both refugees and IDPs. While the key issues identified clearly apply to both groups, greater specificity is required to reflect the particular circumstances of IDPs. For example, in the context of peace agreements the focus is on refugees who are returning, whereas the rights of IDPs to choose whether or not they return to their place of origin needs to be acknowledged.

The purpose of this part of the report is to review recent peace agreements to see to what extent they refer specifically to IDPs and in order to begin to identify good practice in addressing internal displacement specifically in peace agreements. It refers to national peace agreements in the following countries - Bosnia, Burundi, Cambodia, Georgia,

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[61] Betts, A. (2006) 'Comprehensive Plans of Action: Insights from CIREFCA and the Indochinese CPA', *UNHCR New Issues in Refugee Research*, Working Paper No 120, January; Fagen, P.W. (1993) 'Peace in Central America: Transition for the Uprooted', in US Committee for Refugees, *World Refugee Survey*, pp. 30-39; Worby, P. (2000) *Lessons Learned from UNHCR's Involvement in the Guatemala Refugee Repatriation and Reintegration Programme, 1997-1999,* UNHCR Regional Bureau for the Americas and Evaluation and Policy Analysis Unit, February 10.
[62] Public International Law and Policy Group (2005) *Peace Agreement Drafter's Handbook: Refugee Return*

Guatemala, Kosovo, Liberia, Macedonia, Mozambique, Nepal, Sierra Leone, and Sudan; as well as to regional Great Lakes Peace Pact, which has a specific protocol on internally displaced persons.

4.1 Definitions

Two examples of including reference to IDPs in the definitions in peace agreements are provided by the Burundi and Guatemala Agreements:

Chapter 1, Article I of the Burundi Agreement[63] spells out that:

> 'For the definition of the term 'refugee', reference is made to international conventions, including the 1951 Geneva Convention Relating to the Status of Refugees, the 1966 Protocol Relating to the Status of Refugees and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. The term *sinistrés* designates all displaced, regrouped and dispersed persons and returnees.'

Article I of the Guatemala Agreement[64] stipulates that:

> 'For the purposes of this Agreement, the term 'uprooted population' shall include all persons who have been uprooted for reasons connected with the armed conflict, whether they live within or outside Guatemala, and shall include, in particular, refugees, returnees and internally displaced persons, either dispersed or in groups, including popular resistance groups.'

As regards their coverage of internal displacement, there are elements of good practice in both examples but also gaps. The Guatemala Agreement makes specific reference to the category 'internally displaced person' and distinguishes those displaced inside and outside the country; the Burundi Agreement does not. The Burundi Agreement makes specific reference to international legal definitions, but not to the definition of an IDP provided in the UN Guiding Principles. Although not a binding definition in the same way as the refugee definition cited, this is nevertheless a definition with wide international acceptance. The Burundi Agreement also usefully clarifies the locally-used term *sinistrés*. Both definitions are inclusive in that they refer to all displaced persons and thus by extension even to those who have not necessarily been registered as displaced, as well as those inside and outside camps. At the same time it is worth observing that the Guatemala Agreement specifies displacement as a result of armed conflict whereas the Burundi Agreement does not.

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[63] Arusha Peace and Reconciliation Agreement, Protocol IV: Reconstruction and Development, 28 August 2000

[64] Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, 17 June 1994

The Protocol on the Protection and Assistance of Internally Displaced Persons of the Great Lakes Pact refers to the definition of an IDP set out in the Guiding Principles, but also emphasizes the situation of people forced from their homes by large-scale development projects (Article 1(5))[65] – a particular concern in this region.

Combining these examples, good practice for addressing internal displacement in the definitions contained in peace agreements includes:

- A clear distinction between refugees and IDPs;
- Reference to international definitions of both categories;
- Clarification of locally-used terms for particular groups of displaced persons;
- An inclusive definition to cover all displaced persons in all circumstances; and
- Attention to regional displacement specificities.

4.2 Roles and responsibilities in durable solutions

For both returning refugees and IDPs perhaps the critical issue is their safety and security. Different agreements provide different degrees of commitment and specificity on safety and security. Similarly some refer to security during return and others to the security of returnees after their return.

Paragraphs f-g of Provision 2 in the Georgia Agreement[66] provide a general commitment that:

> 'For the purpose of the present agreement, the parties will guarantee the safety of refugees and displaced persons in the course of the voluntary repatriation and rehabilitation operations to be organized.'

> 'The Parties shall ensure that repatriates, upon return, will be protected from harassment, including unauthorized charges or fees and threat to life or property'.

Article 18, Paragraph 2 of the 1993 Liberia Agreement[67] also contains a general pledge that:

> 'The Parties hereto commit themselves…to create the conditions that will allow all refugees and displaced persons to…return to their places of origin or habitual residence under conditions of safety and dignity.'

Ideally, however, greater specificity is required about how security will be provided. The Guatemala Agreement[68] (Article II, Paragraph 4), for example, incorporates specific

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[65] Pact on Security, Stability and Development in the Great Lakes Region (2006)
[66] Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons, 4 April 1994
[67] Cotonou Agreement, 25 July 1993
[68] See *supra* note 64

language to cooperate in the removal of mines and explosive devices in resettlement areas. The Cambodia Agreement[69] also pays specific attention to clearing mines from border crossings and routes.

Of the peace agreements reviewed, the Bosnia Agreement[70] is by far the most comprehensive; and of particular note is that it includes sanctions against those who violate the rights of the displaced. Annex 7, Article I, Paragraphs 2 and 3 stipulate that:

> 'The Parties shall ensure that refugees and displaced persons are permitted to return in safety, without risk of harassment, intimidation, persecution, or discrimination, particularly on account of their ethnic origin, religious belief, or political opinion.'

> 'The Parties shall take all necessary steps to prevent activities within their territories which would hinder or impede the safe and voluntary return of refugees and displaced persons. To demonstrate their commitment to securing full respect for the human rights and fundamental freedoms of all persons within their jurisdiction and creating without delay conditions suitable for return of refugees and displaced persons, the Parties shall undertake immediately the following confidence-building measures:

>   - The repeal of domestic legislation and administrative practices with discriminatory intent or effect;
>   - The prevention and prompt suppression of any written or verbal incitement, through media or otherwise, of ethnic or religious hostility or hatred;
>   - The dissemination, through the media, or warnings against, and the prompt suppression of, acts of retribution by military, paramilitary, and police services, and by other public officials or private individuals;
>   - The protection of ethnic and/or minority populations wherever they are found and the provision of immediate access to these populations by international humanitarian organizations and monitors; and
>   - The prosecution, dismissal or transfer, as appropriate, of persons in military, paramilitary, and police forces, and other public servants, responsible for serious violations of the basic rights of persons belonging to ethnic or minority groups.'

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[69] Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, Part V: Refugees and Displaced Persons, 23 October 1991

[70] The General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 7: Agreement on Refugees and Displaced Persons, 14 December 1995

Again combining these examples, good practice for guaranteeing security for displaced persons in peace agreements entails:

- An explicit commitment of cooperation by all parties in guaranteeing safety and security during and after return;
- Specific and detailed language about how security will be provided; and
- Sanctions against people who violate the rights of the displaced.

4.3 Rights of displaced persons

Most peace agreements contain a specific enumeration of the rights of displaced persons, including general guarantees of human rights; the right to and choice of durable solutions; right as citizens; the right to documentation and the right to property.

General guarantees of human rights
The Cambodia Agreement[71] (Annex 4, Part II, Paragraph 4) has a general provision on human rights during return and resettlement:

> 'There must be full respect for the human rights and fundamental freedoms of all Cambodians, including repatriated refugees and displaced persons, in recognition of their entitlement to live in peace and security, free from intimidation and coercion of any kind. These rights would include, *inter alia*, freedom of movement within Cambodia, the choice of domicile and employment, and the right to property.'

Preferable to an incomplete menu of rights as presented in the Cambodia Agreement is to restate previous commitments to national, regional or international human rights instruments, and thus by implication make a comprehensive commitment to human rights. Part II, Article I, Paragraph 1 of the Guatemala Agreement[72], for example, reiterates the parties' full compliance with the Comprehensive Agreement on Human Rights signed in Guatemala in 1994.

International human rights law as it applies to internally displaced persons is collated in the Guiding Principles on Internal Displacement, so an alternative is to refer specifically to these Principles. Article 12 of the Protocol on the Protection and Assistance for Internally Displaced Persons of the Great Lakes Pact[73] stipulates that:

> 'Member States undertake…to provide special protection and assistance to internally displaced persons and in particular to adopt and implement the Guiding Principles on Internal Displacement'

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[71] See *supra* note 69
[72] See *supra* note 64
[73] See *supra* note 65

The Preamble to the Great Lakes Pact[74] also calls for strict observance of the standards and principles of international humanitarian law.

Further good practice is provided in Protocol IV, Chapter I, Article 10 of the Burundi Agreement[75] which contains a provision to ensure that the government provides special assistance and protection to vulnerable groups:

> 'The Government shall ensure, through special assistance, the protection, rehabilitation and advancement of vulnerable groups, namely child heads of families, orphans, street children, unaccompanied minors, traumatized children, widows, women heads of families, juvenile delinquents, the physically and mentally disabled, etc.'

Good practice for language on respecting the human rights of IDPs in peace agreements covers:

- Confirmation of full respect for the human rights of displaced persons;
- Reference to national, regional and international human rights instruments that comprehensively enumerate rights;
- Reference to the Guiding Principles on Internal Displacement;
- Reference to international humanitarian law; and
- Paying special attention to the protection of vulnerable groups.

The right to choose return, local integration or settlement elsewhere in the country
The Burundi Agreement[76] (Protocol IV, Chapter I, Article 2, Paragraph 2, Parts a and f) states straightforwardly that: 'All Burundian refugees must be able to return to their country' and 'All *sinistrés* wishing to do so must be able to return to their homes'. In the case of *sinistrés*, which category includes IDPs, it is important that the language at least implicitly recognizes that they also have the right not to return and to stay elsewhere in their country.

On this issue of the right of IDPs to choose between different alternatives for durable solutions, The Nepal Agreement[77] (Paragraph 7.3.3) is more specific:

> 'Both sides shall respect and protect the citizens' right to free mobility and the freedom to choose within legal norms the location of one's residence and express the commitment to respect the right of the people displaced by the conflict and their families to return back to their homes or settle in any other location of their choice.'

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[74] See *supra* note 65
[75] See *supra* note 63
[76] See *supra* note 63
[77] Nepal Peace Agreement, 21 November 2006

The language in the Bosnia Agreement[78] (Annex 7, Article I, Paragraph 1) is also straightforward in stating that 'All refugees and displaced persons have the right freely to return to their homes of origin', but importantly refers to the principle of voluntary return.

Annex 4, Part II, Paragraph 7 of the Cambodia Agreement[79] provides a more explicit statement on the right to return and importantly also refers to the importance of information and of preserving family unity:

> 'Repatriation of Cambodian refugees and displaced persons should be voluntary and their decision should be taken in full possession of the facts. Choice of destination within Cambodia should be that of the individual. The unity of the family must be preserved.'

Best practice on covering the right to a durable solution for IDPs in peace agreements would involve language that:

- Guarantees all IDPs the right to choose whether or not to return, to integrate locally or to settle elsewhere in the country;

- Commits to providing full information to allow an informed decision; and

- Recognizes the importance of preserving family unity

Rights as citizens

The Mozambique Agreement[80] (Protocol III, Article IV, Paragraphs c and d) provides an assurance that refugees and displaced persons did not forfeit any rights or freedoms by having left their place of origin and that those persons will be registered and included in civil activities in their places of origin:

> 'Mozambican refugees and displaced persons shall not forfeit any of the rights and freedoms of citizens for having left their original places of residence;
> Mozambican refugees and displaced persons shall be registered and included in the electoral rolls together with other citizens in their place of residence.'

IDPs are, as a rule, citizens of the country where they are displaced, and it is important for peace agreements to recognize this fact and guarantee their full rights as citizens. Participation in elections is an important right for citizens but by no means the only one.

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[78] See *supra* note 70
[79] See *supra* note 69
[80] General Peace Agreement for Mozambique, Protocol III, 4 October 1992

Another important issue pertaining to the right to citizenship is the registration as citizens of children born while displaced. The Guatemala Agreement[81] (Article II, Paragraph 7) stipulates that:

> 'The necessary administrative rules to streamline formalities to ensure that children of uprooted persons…are registered as native Guatemalans…shall be promulgated.'

Good practice on addressing the right to citizenship in peace agreements includes:

- Explicit acknowledgement that IDPs are citizens of their country;
- A guarantee of the full rights as citizens of IDPs; and
- Provisions for registering as citizens children born while displaced.

The right to documentation

Even where citizenship is uncontested, a particular problem for IDPs trying to exercise their rights (for example to education or healthcare) is that they have lost official documentation (even if under international law all children have the right to education whether or not they have documentation).

The Guatemala Agreement[82] (Article II, Paragraph 7) specifically addresses the issues surrounding the lack of personal documentation – and suggests remedies:

> 'The lack of personal documentation for the majority of the uprooted population groups increases their vulnerability and limits their access to basic services and the enjoyment of their civil and political rights. This problem requires urgent solutions. Consequently the Parties agree that the following steps are necessary:
>
> - In order to arrange for documentation of uprooted persons as soon as possible, the Government, with the cooperation of the international community, shall intensify its efforts to streamline the necessary mechanisms, taking into account, where appropriate, the registers kept by the uprooted themselves;
> - The necessary administrative rules to streamline formalities to ensure that children of uprooted persons…are registered…shall be promulgated.'

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[81] See *supra* note 64
[82] See *supra* note 64

Good practice on addressing the right to documentation in peace agreements entails:

- Clear commitments to registering IDPs where this has not already taken place; and

- Provisions for providing IDPs with all necessary documentation

The right to property

As indicated above in discussion of the Burundi Agreement, the right to property and home should be dealt with as a specific item in peace agreements. It is often one of the most important obstacles to return and resettlement for IDPs.

The Georgia Agreement[83] offers a provision stating that property (real and personal) of displaced persons shall be returned or appropriately compensated for through a claims mechanism:

> 'Returnees shall, upon return, get back movable and immovable properties they left behind and should be helped to do so, or to receive whenever possible and appropriate compensation for their lost properties if return of property appears not feasible. The Commission…will establish a mechanism for such claims.'

The Mozambique Agreement[84] (Article IV, Paragraph e) stipulates the legal right to recover property:

> 'Mozambican refugees and displaced persons shall be guaranteed restitution of property owned by them which is still in existence and the right to take legal action to secure the return of such property from individuals in possession of it.'

The Guatemala Agreement[85] (Part III, Paragraph 8) has a specific provision to eliminate discrimination against women in access to land and housing:

> 'The Government undertakes to eliminate any form of *de facto* or *de jure* discrimination against women with regard to access to land, housing, credits and participation in development projects.'

The Great Lakes Pact[86] includes a specific Protocol on the Property Rights of Returning Persons. Article 4 provides for the establishment of legal mechanisms for the adjudication of claims. It also requires the establishment of '…an affordable property

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[83] See *supra* note 66
[84] See *supra* note 80
[85] See *supra* note 64
[86] See *supra* note 65

registration scheme under which title to property, including land, held under both customary and statutory land tenure systems is recognized'.[87]

Good practice for language to address the right to property and homes for IDPs in peace agreements should:

- Guarantee the restitution of all property, and where not feasible commit to a compensation mechanism;

- Provide for legal means to recover property where appropriate;

- Apply comprehensively to all local ownership and land tenure systems; and

- Guard against gender-based and other discrimination in access to property and land.

4.4 Implementation processes

Under the broad heading of implementation, three areas that pertain to displacement are variously covered in many peace agreements: the creation of resettlement or rehabilitation commissions or task forces; funding mechanisms; and cooperation with the international community.

Resettlement or rehabilitation commissions

Article V, Paragraph 2 of the Guatemala Agreement[88] commits the Parties to:

'…establish a Technical Committee for the implementation of the resettlement agreement, to be composed of two representatives designated by the Government, two representatives designated by the uprooted population groups, and two representatives of donors, cooperating bodies and international cooperating agencies.'

Strengths of this language are that it stipulates the composition of the committee and includes representatives of uprooted population groups. A weakness is that it is not specific on the tasks for the committee. In contrast, the Georgia Agreement[89] also establishes a Commission and stipulates as its principal tasks:

'…to formulate, discuss and approve plans to implement a program for the safe, orderly and voluntary repatriation of refugees and displaced persons…Such plans should include registration, transport, basic material assistance…and rehabilitation assistance.'

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[87] International Refugee Rights Initiative/Internal Displacement Monitoring Centre (2007) Enhancing Protection of Displaced Populations: Translating the Great Lakes Peace Pact into Action, Background Note, April
[88] See *supra* note 64
[89] See *supra* note 66

The Burundi Agreement[90] is more comprehensive. In Protocol IV, Chapter I, Article 4, it defines as priorities for the National Commission for the Rehabilitation of *Sinistrés* (CNRS):

- To ensure the socio-economic and administrative reintegration of *sinistrés*;

- To give all returning families…food aid, material support and assistance with health, education, agriculture and reconstruction;

- To provide communities, villages and *collines* with assistance in the reconstruction of community infrastructures;

- To settle all those who believe they cannot yet return on sites close to home;

- To encourage…grouped housing in the reconstruction policy in order to free cultivable land;

- To ensure equity in the distribution of resources;

- To promote the participation of the population in resettlement activities;

- To help returnees recover property and bank accounts;

- To offer intensive language courses for returnees to mitigate language problems; and

- To assist returnees in other areas such as medical services, psychological support etc.

Where peace agreements establish commissions or taskforces, good practice would be to:

- Define its composition;

- Specify its responsibilities and accountabilities; and

- Promote the participation of displaced populations.

Funding mechanisms

To address the funding challenge, peace agreements generally have sought assistance from the international community to fund and implement return or resettlement programs. Different agreements have adopted different methods for requesting funds from the international community. Protocol IV, Chapter I, Article 7 of the Burundi Agreement[91], for example, expressly grants international and non-governmental organizations unrestricted access to returnees to administer humanitarian aid and it also pledges to

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[90] See *supra* note 63
[91] See *supra* note 63

establish a National Fund to provide assistance. Part 5 of Article XXII of the Sierra Leone Agreement[92] seeks funds from UN agencies and 'friendly countries'.

Annex C, Paragraph 3.2 of the Macedonia Agreement[93] identifies the need for a rehabilitation plan and invites the assistance of the international community in implementing and financing the plan:

> 'The Government with the participation of the parties will complete an action plan within 30 days after the signature of the Framework Agreement for rehabilitation and reconstruction in areas affected by the hostilities. The parties invite the international community to assist in the formulation and implementation of this plan.'

Similarly, Section 15, Paragraph 1 of the 2002 Sudan agreement[94] states that:

> 'There shall be established a Southern Sudan Reconstruction and Development Fund (SSRDF) to solicit, raise and collect funds from domestic and international donors and disburse such funds for the reconstruction and rehabilitation of the South, for the resettlement and reintegration of internally and externally displaced persons.'

The Burundi, Sierra Leone, Macedonia and Sudan Agreements all provide different options for addressing the critical issue of funding. This report does not have sufficient evidence to judge which option has proved most effective, particularly considering the many factors that contribute to donors' decisions, and therefore cannot be prescriptive about good practice in establishing a funding mechanism in peace agreements, other than stressing that provisions for a funding mechanism must be included. But what is clear is that the well-being of IDPs, refugees and other war-affected populations and vulnerable groups is often very much dependent on international donors, who therefore clearly need to be consulted in drafting funding mechanisms into peace agreements.

Cooperation with the international community

Beyond attracting international aid, it is also important that peace agreements contain specific provisions for access by humanitarian agencies and workers to IDPs and return and resettlement areas. Article II, Paragraph 4 of the interim Kosovo Agreement[95] states that:

> 'The Parties shall cooperate fully with efforts by UNHCR and other international and non-governmental organizations concerning the

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[92] Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, 7 July 1999
[93] Framework Agreement, 13 August 2001
[94] Machakos Protocol, 20 July 2002
[95] Interim Agreement for Peace and Self-Government in Kosovo, 23 February 1999

repatriation and return of persons, including those organizations monitoring the treatment of persons following their return.'

Paragraphs a-b of Provision 11 of the Georgia agreement[96] are more specific in their stipulation that:

'UNHCR shall have direct and unhindered access to all displaced persons/refugees from Abkhazia in order to undertake activities essential to discharge its mandate and operational and monitoring responsibilities.'

'Travel shall be facilitated between and within all areas where refugees and displaced persons are located and areas of return for personnel of the United Nations and other relevant international and non-governmental agencies…It shall include the free use of airspace and authorized airstrips and airports for relief flights and the exemption from taxes and duties of all goods imported for use in the voluntary repatriation program…and for the provision of relief, integration and rehabilitation assistance…'

Good practice in providing for cooperation with the international community in this regard includes:

- A guarantee of unimpeded access for humanitarian agencies and their staff to IDPs and return and resettlement locations; and

- Specific commitments to how access will be facilitated.

4.5 Compliance

That formal peace agreements today often do incorporate specific measures for the protection and reintegration of IDPs and the establishment of implementation mechanisms is indeed positive and new. At the same time, it is fair to call attention to the fact that positive language in the agreements is undermined time and again by lack of robust compliance.

Points left vague in the body of the agreement may become subject to subsequent drawn-out negotiations; judicial arrangements created to oversee compliance and settle differences may not operate at local levels; other post-conflict priorities almost always take precedence, and momentum declines. Mechanisms of execution for the different segments of peace agreements, terms of reference and accountability of executing bodies vary greatly. Access, resources and decision-making authority are problematic. The record of long-term engagement by the international community in peace processes has been discouraging. A lack of economic opportunities and landmines in particular remain enormous obstacles to return. There is also a dearth of analysis on national bodies created

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[96] See *supra* note 66

to oversee peace agreements and more research should be devoted to examining and analyzing their effectiveness.

UN missions have attributed weak compliance variously to unfavorable conditions, poorly trained local personnel, lack of financial support, and specific obstacles such as landmines. Local hostility, national indifference, continuing security threats from one or several of the former parties to the agreement, and lack of accountability for human rights violations also figure prominently. Even where political will exists, as it does for example in Liberia and Sierra Leone, it is difficult for newly installed governments to exercise their authority to ensure IDPs' rights, given the many other serious challenges they face. In nearly all countries covered in background research for this report, IDPs and other war-affected populations continue to endure extremely difficult conditions following peace agreements.

Sudan and Bosnia exemplify how well-worded agreements can be undermined by a lack of political will. Although Southern Sudan signed a Comprehensive Peace Agreement with the North in January 2005, conflict and distrust are still widespread. The autonomous Southern Sudanese government in Juba and local leaders in the south have received over one million returnees and are prepared to receive many more of the estimated four million who remain displaced arrive. However, they lack resources and the capacity to integrate them properly. The Khartoum government maintains a dual policy. On the one hand it does not impede the movement of the millions of refugees and IDPs who choose to return to Southern Sudan, and there is cooperation on humanitarian issues between North and South. On the other hand, the Khartoum government thus far has resisted implementing measures in the Comprehensive Peace Agreement that bear on the future of war-affected populations, and specifically it has not acted on the decisions of the Abyei Boundary Commission.

The most comprehensive and detailed of the endeavors to codify IDP and refugee solutions in a peace agreement is the December 1995 General Agreement for Peace in Bosnia and Herzegovina (Dayton Accord). Annex Seven of the Dayton Accord directs national authorities and international entities on the tasks to be undertaken and assigns responsibility for fulfilling them. The agreement lists the measures to be enforced and affirms the responsibility to punish those who violate them. The international negotiators considered ethnic hostilities and displacement as the underlying causes of the conflict and thus essential to be redressed. However, the agreement ultimately failed to reproduce the multi-ethnic society which was lost in the conflict. While there were many reasons, the fundamental problem was that the Dayton Accord was not fully agreed to by all the parties to the conflict. Of all the measures in the agreement, moreover, those aimed at restoring ethnic diversity met with the most resistance.

Compliance on commitments to IDPs in peace agreements requires systematic monitoring, which currently does not occur. UNHCR monitors its own programs, and adds whatever context appears relevant; human rights organizations track violations, but rarely disaggregate victims according to whether they are returnees; the UN Office for the Coordination of Humanitarian Affairs (OCHA) and other humanitarian groups furnish

information on whether conditions are conducive to receive IDPs or other returnees, but do not track them.

The most comprehensive monitoring is that of the UN special missions, which work with governments to implement peace accords and report regularly to the Secretary-General. Theoretically these missions must report on IDP-related issues noted in the agreements. In practice, the reporting on IDPs is weak and unsystematic; and reporting on returning refugees is not much better. Understandably, the UN Missions tend to be more preoccupied with how to keep difficult peace arrangements from unraveling. Their attention is focused on the major political actors and on potential 'spoilers'. The reports of international observers offer little information about the progress made either on meeting the needs of vulnerable populations like IDPs, or the political will and technical capacities of government entities assigned to these tasks.

5. MAINSTREAMING INTERNAL DISPLACEMENT IN PEACE-BUILDING

Both the peace process and peace agreement in Guatemala have been cited through this report as exemplary for incorporating and addressing displaced populations and their needs. It is therefore particularly sobering to observe that more than two years after the agreement was signed, the UN Mission on Verification of the Guatemalan Peace Accords (MINUGUA) reported to the UN Secretary-General with a list of political, legal, and economic measures in the peace agreement that were related to displacement and had not yet been implemented.[97] The refugees and IDPs who returned or resettled have struggled against violence, repression and continuing poverty. The land tenure situation that received unprecedented attention in the peace agreement benefited some groups among the returnees but, in the absence of a judicial system able to enforce the measures fairly, also resulted in illegal takeovers and violent confrontations among the peasant population.[98] No state entity had formal jurisdiction for assistance to IDPs. And IDP assistance has fallen under general programs covering extreme poverty so that their special needs have rarely been addressed.[99]

The lesson is clear. Laudable though they may be, efforts to address internal displacement issues in peace processes and peace agreements are largely pointless unless those issues are also mainstreamed in the peace-building phase. This final substantive part of the report explains why this is the case and how it should be achieved; it also charts a role for the new Peacebuilding Commission in ensuring that it happens.

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[97] Informe del Secretaria General, 1 de enero -31 de julio de 1998, p.8.
[98] Azpuru, D. (1999) 'Peace and Democratization in Guatemala' in C. J. Arnson, (ed.) *Comparative Peace Processes in Latin America,* p. 120.
[99] Worby, P. (2004) see *supra* note 25

5.1 Internally displaced persons and peace-building

Helping IDPs – as well as refugees – to reintegrate and return can simultaneously address the root causes of the conflict and help to prevent further displacement or renewed displacement. Finding durable solutions for the displaced thus should be seen as a necessary element of effective peace-building.

The process of peace-building is multi-faceted and usually involves: re-establishing security and law and order; reconstruction and economic rehabilitation; reconciliation and social rehabilitation; and political transition to creating more accountable governance structures and institutions.

The ways in which IDPs benefit from these processes may well affect the success of country-wide peace-building initiatives. To put it another way, failure to consider IDP concerns in these areas may jeopardize the sustainability of peace in the country. For example, when displaced people are not able to recover their land or property or otherwise find solutions allowing them to live decent lives and when they feel that they have suffered injustice, reconciliation becomes more difficult. If durable solutions are not found for IDPs, their potential for contributing to economic reconstruction and rehabilitation is limited and poverty reduction becomes more difficult. Similarly, the exclusion of IDPs from political participation can reinforce feelings of marginalization and make it more difficult for a new government to claim legitimacy.

In contrast, resolution of such issues can be a positive force for social rehabilitation and thus lasting peace. Experience has shown that IDPs who return can play an important role in re-building their homes and communities and thus in contributing to the economic development of the country. Ensuring that IDPs are able to participate in the political process can be a tangible expression of a commitment to inclusivity and can serve to encourage the new government to adopt policies that are responsive to the needs of displaced or returnee populations.

At the same time, neglecting peace-building measures may seriously undermine efforts to find durable solutions for the displaced. For example, if the situation in communities of origin is not perceived as safe by displaced persons, they will not return. Or, if they do return, they may move again if security is inadequate. Similarly, if reconstruction and economic rehabilitation are not sufficient to enable the displaced to resume economic livelihoods, return will not be sustainable. Political transitions need to take into account the particular needs of IDPs, for example to enable them to vote on interim political arrangements and to participate in the political life of the country – even before they return to their communities of origin. Finally, issues of reconciliation are closely related to issues of justice and to demands for restitution or compensation for losses which have been experienced. The way in which these issues are resolved will have a major impact on the sustainability of peace in the country.

5.2 Displacement-related peace-building measures

Displaced persons and returnees face many problems that need to be addressed by their governments, often with the help of the international community. Experience shows that the successful return of IDPs and refugees to their homes and former places of habitual residence is based on three elements: ensuring the safety of returnees; returning property to the displaced and reconstruction of their houses; and creating an environment that sustains return.

Many elements of these basic conditions are also important components of any peace-building effort, and the extent to which durable solutions for displaced persons can be found may hinge on whether or not such efforts are successful in a particular situation. An analysis of RSG mission reports shows that in post-conflict situations, peace-building activities in the following areas are particularly relevant for displaced persons and returnees:

- Providing security through demobilization, de-mining, reestablishing the rule of law, combating impunity, etc.;

- Solving property-related problems (reconstruction and restitution of property; resolution of property related disputes);

- Furthering reconciliation between local communities and returnees;

- Undertaking post-conflict reconstruction i.e. re-establishing basic infrastructure and services as well as ensuring access to services, resources and livelihoods; and

- Ensuring the political transition to and the establishment of an effective and legitimate government in which the various sectors of society, including IDPs and returnees, can become stakeholders.

Security

Creating or maintaining an environment that is safe enough for displaced persons to return to their homes and places of origin is an important task of peace-building efforts. In many countries coming out of an armed conflict, landmines and unexploded ordnance pose a significant obstacle to the safety of returnees, to reconstruction efforts and to the development of economic activities. This is especially true where returns are taking place to rural areas where agriculture and livestock breeding are essential means of subsistence – as for example in Bosnia, Lebanon and Sudan.[100]

The presence of armed groups, whether belonging to regular forces or militias, may create a serious obstacle to return and may be considered as a threat by potential returnees[101] due to their past behavior, ethnic origin or lack of discipline. This is

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[100] RSG, E/CN.4/2006/71/Add.4 (Bosnia-Herzegovina), para. 37; A/HRC/2/7 (Lebanon), paras 81 and 84; and E/CN.4/2006/71/Add.6 (Sudan), paras 46, 47 and 52
[101] RSG, A/HRC/4/38/Add.3 (Colombia), para. 61

especially true where these forces have caused the displacement suffered by returnees, for example in Colombia. In such cases, it is necessary to either disarm such groups or to integrate them into the post-conflict armed forces of the country concerned; in addition, there might be a need to relocate them to other parts of the country to give returnees a sense of security.[102]

Where impunity prevails, whether because of lack of political will to hold those responsible for crimes accountable or because of understaffing of law enforcement personnel, durable solutions for displaced persons are not possible[103] and such impunity may create new tensions, endangering a fragile peace. This was found to be the case in Bosnia and Herzegovina.

Often, the safety of displaced persons and returnees can be threatened by criminal elements among the local population or by returning combatants who have been demobilized but have not successfully reintegrated into civilian life. In this case, return will not take place or will not be sustainable without the presence of law enforcement agencies in areas of return. Deployment of civilian police in sufficient numbers and rebuilding or strengthening the judiciary is therefore of paramount importance; where relevant, this must be preceded by shifting the responsibility for law and order from the military back to civilian authorities, as has been recommended in Northern Uganda.[104]

Property

Experience ranging from Côte d'Ivoire to Croatia shows that while tensions between local communities and displaced persons and returnees may be couched in ethnic, religious or political terms, they are often directly related to disputes over resources and property. Population movements usually create conflicts over land and dwellings. Lack of reconstruction of destroyed houses or non-return of property left behind – taken over by either the local population or persons who themselves have been displaced – create serious obstacles to return.[105] The judiciary may be overburdened or otherwise unable to solve property disputes.[106] Female heads of household may face additional problems. They often lack property titles in their own names, have lost access to their pre-displacement property due to divorce or because their husbands have abandoned them, or cannot inherit their deceased husbands' property. These factors can prevent them from submitting claims for both repossession and reconstruction of their houses. Orphans or unaccompanied children may experience similar problems.

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[102] RSG, E/CN.4/2006/71/Add.6 (Sudan), para. 44; A/HRC/4/38/Add.2 (Cote d'Ivoire), para. 56
[103] RSG, E/CN.4/2006/71/Add.7 (Georgia), paras 35-36; E/CN.4/2006/71/Add.4 (Bosnia-Herzegovina), para 35
[104] RSG, A/61/276, para. 33 regarding Northern Uganda
[105] RSG, E/CN.4/2006/71/Add.4 (Bosnia-Herzegovina), paras 38-41; E/CN.4/2006/71/Add.5 (Serbia-Montenegro including Kosovo), paras. 57-58; E/CN.4/2006/71/Add.6 (Sudan), paras. 47-49; A/HRC/4/38/Add.2 (Cote d'Ivoire), paras. 58-60; E/CN.4/2006/71/Add.7 (Georgia), paras 37-39; A/61/276, para. 34 regarding Northern Uganda; A/HRC/4/38/Add.3 (Colombia), paras. 57-61 and 71-74.
[106] RSG, E/CN.4/2006/71/Add.3 (Croatia), para. 41; A/61/276, para. 34 (Northern Uganda); E/CN.4/2006/71/Add.6 (Sudan), para. 48.

Special problems arise where displaced persons are holding traditional but informal titles not recognized by the authorities, as is commonly the case in Northern Uganda.[107] Specific problems also arise where persons cannot return to their original lands, such as those who have been displaced for two or more generations and are no longer considered entitled to particular areas of land, or where land has become unusable due to landmines or ongoing occupation by militias.[108] Creative solutions are necessary to address such property problems that, if unresolved, may become the cause of new conflicts.

The following measures may contribute to reducing property disputes and thus stabilizing peace:

- Registering land left behind by displaced persons, and updating - or, where necessary creating – land registries;

- Taking appropriate legal measures to recognize, where necessary, property rights of women and orphans;

- Formalizing informal forms of property traditionally held by minorities or other vulnerable groups and restore collective forms of property to indigenous peoples;

- Establishing administrative or quasi-judicial mechanisms to handle large numbers of property disputes or – where property has been destroyed or cannot be restored to its lawful owner – to provide compensation for damage;

- Establishing efficient law enforcement mechanisms to enforce orders to vacate and restore to its lawful owner property belonging to displaced persons and returnees - these mechanisms need to be linked to the local reconciliation and transitional justice mechanisms, since they can be the source of further conflict if badly managed; and

- Developing transparent and equitable alternatives if the restitution of property involves the eviction of other displaced persons.

Reconciliation and transitional justice

Promoting justice and the rule of law is a key imperative in divided societies emerging from armed conflict. Failure to attend to this will impact on both the consolidation of peace in the short-term and the sustainability of peace in the long-term. In the immediate post-settlement period, this imperative is rooted in the need to establish a degree of stability and order, protect vulnerable groups, facilitate legitimate redress for grievances and build confidence amongst the population. In the long term, it is related to the fact that the absence of justice can be a primary reason for the absence of peace. Factors such as authoritarian rule, exclusion of minorities from governance, disparities between identity groups in access to resources and opportunities, ineffective law enforcement,

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[107] RSG, A/61/276, para. 34 (Northern Uganda).
[108] RSG, E/CN.4/2006/71/Add.6 (Sudan), para. 47.

institutionalized discrimination, and a lack of accountability and transparency, have been underlying causes in numerous conflicts.[109]

In certain situations, displaced persons cannot return to their places of origin and homes or their return is not sustainable because they are not welcomed by local communities and encounter discrimination or even acts of violence.[110] Inter-communal and intra-communal tensions over access to land and water may further exacerbate IDPs' and returnees' fear for their physical safety and lead to further outbreaks of violent clashes.[111] In all these situations, robust steps aimed at reconciling communities and restoring justice should be considered.[112] Mechanisms of reconciliation and transitional justice should be without prejudice to displaced persons' rights to restitution, compensation, rehabilitation, reparation and guarantees of non-repetition.[113]

Post-conflict reconstruction

In many post-conflict situations the creation of adequate economic, social, and political conditions to make return for displaced persons sustainable, remains a huge challenge. When there are not any schools or even the most basic health services, people will prefer to remain in the areas to which they fled. In Sudan, for example, limited or no access to education has been a major factor deterring IDPs from returning to rural areas.[114] Where basic infrastructure such as water, roads or electricity is destroyed, economic activities may be impossible.[115] Limited access to employment and other forms of livelihood is another major factor deterring people from returning; pre-displacement patterns of discrimination based on ethnicity, political affiliation and gender add to the difficulties returnees face in accessing already strained labor markets.[116] The absence of or high interest rates for micro-credit and bank loans make it difficult to restart businesses or to bridge the time until agricultural land is productive again.[117] This is particularly crucial for people returning to lands that have not been worked for several seasons. In order to make return sustainable and thus to stabilize the situation, it is important to closely coordinate and combine humanitarian assistance for returnees with recovery and development efforts from the outset, instead of planning these activities as consecutive phases.

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[109] Parlevliet, M. (2006) *National Human Rights Institutions and Peace Agreements: Establishing National Institutions in Divided Societies*, Paper presented to International Council on Human Rights Policy Review Meeting on the Role of Human Rights in Peace Agreements, Belfast, March 7-8
[110] RSG, E/CN.4/2006/71/Add.4 (Bosnia-Herzegovina), para. 36; E/CN.4/2006/71/Add.5 (Serbia-Montenegro including Kosovo), para. 56.
[111] RSG, E/CN.4/2006/71/Add.6 (Sudan), para. 46.
[112] RSG, A/HRC/4/38/Add.2 (Cote d'Ivoire), para. 56.
[113] RSG, A/HRC/4/38/Add.3 (Colombia), para. 70.
[114] RSG, E/CN.4/2006/71/Add.6 (Sudan), para. 52;
[115] RSG, E/CN.4/2006/71/Add.6 (Sudan), para. 50.
[116] RSG, E/CN.4/2006/71/Add.4 (Bosnia-Herzegovina), para. 43.
[117] RSG, A/HRC/4/38/Add.3 (Colombia), para 56; E/CN.4/2006/71/Add.4 (Bosnia-Herzegovina), para. 45.

Political transitions

The process of peace-building requires the establishment of a functioning legitimate government, which usually involves setting up a transitional administration, referenda on a constitution, elections, and activities to ensure that the context in which elections take place is conducive to full participation of the population. In post-conflict situations, political participation can effectively contribute to peace, recovery and long-term development. Thus, taking seriously political rights, 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. Protecting the civil and political rights of displaced people – the right to vote, to freedom of assembly and association, and of expression – allows displaced persons to play an active role in shaping their own future and that of their nation.[118]

Yet there are often obstacles to the participation of IDPs in elections. The Organisation for Security and Cooperation in Europe (OSCE) has identified six specific obstacles to IDP enfranchisement: lack of documentation; discriminatory practices; obsolete and restrictive residence requirements; inadequate voting arrangements; lack of timely, adequate and clear information; and insecurity and acts of intimidation. It is critical that governments and international monitors address such issues – for example in Nepal where the timetable for elections is currently being discussed.[119]

5.3 Roles and responsibilities in peace-building

The reasons for mainstreaming internal displacement in peace-building have been established above, as have the main issues for attention. Just as important, however, is to understand who has responsibilities for implementing the sorts of measures identified, and distinguishing the roles of the various actors. Often the failure to implement peace agreements and build peace has less to do with lack of political will than with lack of capacity and coordination.[120]

A full inventory of the responsible parties in peace-building is beyond the scope of this report; and in any case is probably impossible as the configuration of actors varies across different post-conflict situations and over time. Furthermore there can be blurred boundaries between the activities of agencies working on relief, development and peace-building.[121] The purpose of this section instead is to identify the key actors and their main roles in order to target recommendations relating to internal displacement. Against the background of understanding that there is a wide range of actors involved in peace-

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[118] RSG, A/HRC/4/38/Add.2 (Cote d'Ivoire), para. 50; E/CN.4/2006/71/Add.2 (Nepal), para. 57; Walter Kälin, "Keynote address: political rights of persons displaced by conflict," Colloquium at the International Organization for Migration, 13 June 2006.

[119] Ghimire, A. (2007) 'Enfranchising IDPs in Nepal', *Forced Migration Review* (28):48

[120] ICG (2007) 'A Strategy for Comprehensive Peace in Sudan', Africa Report 130, July

[121] Crisp, J. (2001) 'Mind the Gap! UNHCR Humanitarian Assistance and the Development Process', *New Issues in Refugee Research*, 43, Geneva: UNHCR

building, the subsequent section focuses attention on the role of just one of these, the UN Peacebuilding Commission, and explains why.

National governments

The principal responsibility for providing security; addressing property issues; promoting reconciliation and transitional justice; reconstruction; and political transition – indeed for implementing and monitoring peace-building as a whole - lies clearly with national governments. Governments have obligations under international human rights law and international humanitarian law to protect the rights of all citizens – including IDPs and returning refugees. Some of the critical roles national governments can play in this regard include: establishing security and the rule of law; developing legal and security institutions; supporting civil society; attracting private sector investment[122] and establishing National Human Rights Institutions (NHRIs) where they do not exist[123].

NHRIs

The UN distinguishes three main types of NHRI – human rights commissions, ombudsmen and specialized institutions to focus on the rights of specific vulnerable groups. NHRIs have multiple roles that can contribute to protecting IDPs in post-conflict situations: they contribute to the formulation of policy; review legislation to ensure that it is in line with international human rights standards; assist victims in seeking legal redress; and contribute to the development of human rights jurisprudence. Their activities are also often geared towards ensuring compliance with international norms and rules; developing national action plans for human rights protection; investigating complaints; referring human rights cases to courts; participating in legal proceedings; and reporting on human rights issues. Peace agreements in Afghanistan, Bosnia-Herzegovina, El Salvador, Guatemala, Northern Ireland, Rwanda, Sierra Leone, South Africa and Sudan have all included recommendations on the establishment of NHRIs, although in many cases they have not had sufficient capacity to function effectively, and IDPs are rarely explicitly part of their mandate.[124]

International community

The international community – mainly in the form of the UN – has often been criticized for its heavy-handed approach to peace-building, and in particular for its failure to engage with and encourage the role of national governments and local civil society.[125] As a result a more nuanced understanding of the role of the international community has emerged. It has been suggested, for example, that functions that it is appropriate for the international community to fulfill are as an enforcer of existing agreements and resolutions; as a

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[122] Gerson, A. (2001) 'Peace building: The Private Sector's Role', *American Journal of International Law*, 95(1):102-119

[123] Parlevliet, M. (2006) see *supra* note 112

[124] Parlevliet, M. (2006) see *supra* note 112

[125] Richmond, O. (2001) 'Post-Westphalian' Peace-Building: the Role of NGOs', *Martin Journal of Conflict Resolution*, Article 3

monitor of the implementation of existing agreements; as a mediator and broker between different parties; and as a guarantor of international standards.[126] At the same time many UN agencies also continue to fulfill more operational functions in post-conflict contexts which are important for post-conflict reconstruction.

Within the UN system the Security Council has overarching responsibility for maintaining international peace and security. More specific functions that it fulfills, where there is more tangible scope for mainstreaming internal displacement issues, include defining the mandates of peace-keeping operations and UN Peacebuilding missions and dispatching special UN country missions.[127] This report makes recommendations for the Security Council in both these areas.

Annex IV provides an overview of the main UN agencies involved in peace-building, and their primary focus. While vulnerable populations and IDPs often do not fall directly within their remit, recommendations are nevertheless made later in this report to many of these agencies to mainstream internal displacement issues in their activities – for the reason already explained that far from being an additional concern or special interest in peace-building, addressing displacement-relevant issues is often a central prerequisite to achieving lasting peace.

At the same time a range of agencies also address durable solutions for displaced persons in post-conflict situations, most notably UNHCR and the UN Development Programme (UNDP). The link usually made in these activities is less between durable solutions and peace-building than between durable solutions and development – but in that durable solutions can lay the foundations for lasting peace, the recommendations of this report are also relevant to these agencies.

Civil society

Increasingly certain peace-making, humanitarian and peace-building tasks are being delegated by states and intergovernmental organizations to NGOs and other civil society actors. Former UN Secretary-General Boutros Boutros-Ghali recognized the assistance that NGOs and civil society can provide for UN peace-building efforts, although he equally stressed that '…governments are central…' to peace-building.[128] In other words civil society is seen as complementing – not replacing – the activities of national governments and the international community.

NGOs have comparative advantages over other actors in the peace-building process which make them potentially a particular significant actor for mainstreaming internal displacement issues. They tend to have an unrivalled familiarity with local conflict

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[126] ICG (2007) see *supra* note 123

[127] Hunt, C. (2006) Public information as a mission critical component of West African peace operations, *Conflict Trends*, 3

[128] Boutros-Ghali, B. (1992) *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping*, New York: UN

environments and close contacts with grassroots movements. They are often in a unique position to gather information pertaining to human rights abuses. They tend to have the flexibility, expertise, rapid responses and commitments at the local level to respond to emerging signs of trouble. Through transnational networks they can also provide a link between local level populations and global civil society.[129]

5.4 The Peacebuilding Commission and internal displacement

This final section lays out a specific role for the new UN Peacebuilding Commission in mainstreaming IDPs and their priorities in peace-building efforts. It needs to be reiterated from the outset that the Peacebuilding Commission is just one component of the international community, which is in itself just one part of a range of actors involved in peace-building. The critiques of peace-building initiatives among UN agencies in general that have been outlined above also should be heeded again. Finally, over one year after it began its work, the Peacebuilding Commission specifically has also been criticized: for having a limited country focus, for being led by the agenda of national authorities, and for having quickly become politicized.[130]

Nevertheless, it is suggested here that the Peacebuilding Commission represents a unique institutional opportunity to mainstream IDPs and their priorities in peace-building efforts worldwide. The mandate of the Peacebuilding Commission is explained in detail in Annex V, but broadly it is to support the development of integrated strategies for post-conflict peace-building. With members from the major UN charter bodies (Security Council, General Assembly and ECOSOC) the Peacebuilding Commission reflects a broad and representative UN constituency. Additional members include representatives from the main troop-contributing nations and the major funders of peace operations. The inclusion of all major actors with a stake in the success peace-building gives the Peacebuilding Commission significant legitimacy.

Despite its lack of direct operational capacity, the Commission is tasked with providing recommendations and information to improve the coordination of all relevant actors within and outside the UN. It is therefore in a position to become an important advocate, catalyst, forum and monitor for ensuring that the UN system addresses the needs of displaced persons in the broader context of peace-building.

As implementing durable solutions for IDPs is an integral component of peace-building,[131] the Peacebuilding Commission should seek ways of ensuring governments and the international community address concerns of the displaced in their peace-building activities. The ideal scenario would have the Peacebuilding Commission assemble the right people at the table to identify existing and planned projects, highlight gaps and pinpoint relevant good practices. This knowledge would then be synthesized into a set of

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[129] Richmond, O. (2001) see *supra* note 128

[130] ActionAid, CAFOD, Care International (2007) *Consolidating the Peace? Views from Sierra Leone and Burundi on the UN Peacebuilding Commission*, London: ActionAid/CAFOD/CARE

[131] Security Council Resolution 1645 (20 December 2005); General Assembly Resolution 60/180 (20 December 2005)

priorities for which the national authorities, UN agencies and donors, international financial institutions and civil society representatives would assume responsibility to achieve concrete goals in a unified and coherent strategy. The Peacebuilding Commission would then monitor and follow up to ensure accountability and progress.

Specifically, the Peacebuilding Commission could use its country-specific meetings to ensure that UN agencies design programs to address the manifold problems of IDPs and contribute to peace-building. It could also provide a neutral space for those most involved with IDPs, including representatives of UN country teams who are often ignored, to work together in planning future programs. Gaps or overlaps could be identified and the affected agencies encouraged to resolve the problems.

In addition to its work to promote greater coherence within the UN, the Peacebuilding Commission can also play a role in assisting national authorities. Countries emerging from conflict will need extensive and prolonged support. The first two countries chosen by the Peacebuilding Commission for specific attention, Sierra Leone and Burundi, have limited capacity in state ministries and their fiscal conditions are abysmal. Weak institutions unable to use resources often pose more of a problem than sheer lack of resources. Tens, sometimes hundreds, of thousands of IDPs and refugees will need substantial national assistance to return home and rebuild their lives.

How can the Peacebuilding Commission best support the national authorities, especially in countries destroyed by years of fighting, with little or no infrastructure and empty government coffers, to fulfill their duty towards IDPs?

Firstly, it should emphasize that while the host government's sovereignty will be respected and that states have the primary responsibility to protect IDPs, if they cannot or will not, then the Peacebuilding Commission or other bodies in the UN system stand ready to assist, complement, or advise them.

Secondly, the Peacebuilding Commission should urge all its members and every state on its active agenda to incorporate the Guiding Principles on Internal Displacement into their national laws or policies. The previous chair of the Peacebuilding Commission, the government of Angola, provides an excellent example. [132]

There is currently no mechanism in the UN to ensure oversight and follow up or to establish accountability in peace-building. Thirdly, therefore, the Peacebuilding Commission could provide the ongoing oversight, monitoring and assessment of peace-building activities. It could also hold national authorities and international actors accountable for their policies and performance by requesting information, asking questions and making recommendations, which should incorporate recommendations made by the RSG on IDPs.

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[132] The Stanley Foundation, Policy Bulletin: "Strengthening the UN-Angolan Partnership to Help Angola's Displaced and War-Affected (Conference Report, Sept. 28-Oct. 1, 2003) p. 2

Fourth, the Peacebuilding Commission should use its meetings as a forum to identify and share good practices with the wider UN family. Sierra Leone offers several immediate examples. The government, under the auspices of its National Commission for Social Action, supervised, coordinated and planned for durable solutions for its 3.5 million refugees and displaced. Its Resettlement Strategy emphasized a 'rights-based approach' to IDPs and refugees which depended on close cooperation among civil society, the state, donors and international organizations like the UN family. Yet at its country-specific meeting on Sierra Leone on 12 October 2006, the Peacebuilding Commission did not even consider IDP issues. [133] A similar meeting on Burundi the next day also failed to cover adequately the vital issue of IDPs and returns despite the centrality of the IDP issue to sustainable peace and development in Burundi.[134]

Finally, the Peacebuilding Commission should seek to involve the private sector in funding initiatives to support durable solutions for displacement. There is already 'good practice' to draw on from the field. In Angola, for example, Chevron/Texaco, a major investor in Angola's oil industry, agreed to contribute to and participate in an IOM-sponsored 'Return, Reinsertion and Reintegration' initiative for IDPs. Chevron/Texaco contributed $250,000 or about ten percent of the total budget, to evaluate three projects in different parts of Angola.[135] Chevron/Texaco also met with government officials, NGOs and other stakeholders in the communities to identify how best to ensure durable solutions for the displaced.

6. RECOMMENDATIONS

6.1 Including internal displacement in peace processes

To 'track-one' actors:

- Directly include where possible and appropriate legitimate representatives of displaced populations in formal peace negotiations, with particular attention to including not only refugee but also IDP representatives, and to ensuring gender balance
- Convene separate formal consultations on displacement-specific issues with representatives of displaced populations where their direct participation in peace negotiations is impossible or inappropriate
- Support 'track-two' and 'track-three' processes and guarantee no reprisals against any individuals or organizations that participate in these processes
- Ensure that the outcomes of 'track-two' and 'track-three' processes are taken into account and included in formal negotiations

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[133] Peacebuilding Commission: Country Specific Meeting: Sierra Leone, October 12, 2006
[134] Delrue, T. (2006) 'Burundi: Sliding off the Humanitarian Radar Screen?' *Forced Migration Review* 26:62-3.
[135] IOM, 'Return, Reinsertion, Reintegration Support to Vulnerable Returnees and Displaced Populations in Angola' (6h Quarterly Report January to March 2005), pp. 9-10

- Include UNHCR and other relevant international agencies in 'track-one' negotiations where displacement issues are discussed
- Where possible and appropriate visit IDP camps to gain direct insights into the situation of IDPs

To NGOs and civil society actors including displaced people's organizations

- Establish democratic structures to nominate legitimate representatives of displaced populations to take part in formal 'track-one' negotiations or 'track-two' processes

- Consult with IDPs to develop a list of priority issues for the peace negotiations which are important to and supported by the IDP community

- Identify specific obstacles to the political mobilization of IDPs and develop strategies to overcome them

- Help establish or support civil society coalitions for peace through funding, training and capacity-building and work to ensure that these broad coalitions include displacement-relevant issues

- Encourage local-level conflict resolution mechanisms that include displaced populations

- Raise public awareness about the need to address displacement issues

- Monitor the inclusion of displacement issues in peace processes and call attention to the fact when they are not

To international mediators

- Ensure that internal displacement issues, where relevant, are properly addressed in peace negotiations

- Provide complete and accurate information, where possible, to displaced populations concerning negotiations over their concerns

- Consult, wherever possible, with the legitimate representatives of displaced populations properly to understand their needs and priorities. When this is not possible, consider using alternative means of ensuring that displaced people's concerns are taken into account

To UN agencies and other international actors

- Mainstream in peace processes the normative framework for the protection of the rights of displaced populations

- Provide information on displacement issues to 'track-one' actors

- Participate in peace processes to raise awareness of displacement issues and support IDP representatives

To the UN Department of Political Affairs Mediation Support Unit

- Ensure that internal displacement issues are properly integrated in developing lessons learned and best practices for mediation

- Develop a handbook for mediators specifically addressing internal displacement

- Include internal displacement in training for 'standby teams' of mediation experts

To the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons

- Emphasize in dialogue with national governments the obligation to respect the human rights of internally displaced persons in post-conflict situations, and to work towards preventing displacement in the future

- Emphasize in dialogue with national governments, regional organizations, NGOs and civil society the direct link between addressing internal displacement and achieving lasting peace

- Where possible, target at least one country mission per year on a post-conflict country

- Mainstream the human rights of internally displaced persons in UN agencies and bodies with responsibility for peace processes, peace agreements and peace-building

6.2 Good practice in addressing internal displacement in peace agreements

To peace agreement drafters:

- Ensure that agreements fully incorporate displacement issues, including through:
    - Recognizing the differences between refugees and IDPs
    - Using language that firmly guarantees the parties' cooperation in implementing durable solutions for IDPs
    - Enumerating the rights of IDPs
    - Defining an unambiguous process for implementation, funding mechanisms and cooperation with the international community

- Ensure gender equality and the inclusion of the rights of IDP children and displaced minorities

To national authorities:

- Identify a clear framework for the implementation of commitments to displaced populations, an unambiguous allocation of responsibilities, adequate resources and an appropriate monitoring and evaluation mechanism

- Establish a resettlement or rehabilitation commission or comparable mechanism to coordinate and oversee implementation of commitments on durable solutions

- Establish a National Human Rights Institution where they do not already exist and encourage existing NHRIs to oversee the protection of human rights during implementation

To UN agencies and other international actors:

- Analyze possibilities for durable solutions and provide information to 'track-one' negotiations

- Co-ordinate in-country monitoring on conditions for durable solutions, in particular return processes and problems faced by returnees

6.3 Mainstreaming internal displacement in peace-building

To national authorities

- Systematically address the issue of finding durable solutions for internally displaced persons and returning refugees when dealing with issues including security, reconstruction, reconciliation, and political transition

- Develop a strong human rights regime that addresses the full range of needs of returnees, including their right to reparations for having been the victims of forced displacement and their rights to political participation

- Incorporate the Guiding Principles on Internal Displacement into national legislation if this has not already taken place

- Ensure property restitution or compensation for returnees. In this respect, the following key indicators are important:

  o Repeal of any laws and regulations which are inconsistent with international legal standards relating to the rights to adequate housing and property;

- Non-application of laws which are designed to, or result in, the loss of tenancy, use, ownership or other rights connected with housing, land or property;

- Establishment of efficient dispute settlement mechanisms.

- Removal of obstacles preventing the successful recovery of refugees' and IDPs' properties.

- Address obstacles to IDP participation in elections

- Support NHRIs and civil society groups to play an active role in monitoring the return of displaced persons and identifying problems which may arise

To NHRIs

- Monitor conditions of return, local integration or resettlement to another part of the country for IDPs

- Conduct inquiries into reports of violations of IDPs' human rights

- Investigate complaints particularly regarding compensation or restitution for property, and discrimination against returnees

- Monitor and report on the implementation of peace agreements with particular regard to their provisions for durable solutions

- Advise the government on the rights of IDPs

To civil society

- Raise awareness of the particular protection and assistance concerns of IDPs

- Support the education of local elected representatives and strengthen the role of local leaders to ensure that they are able to respond to the particular needs of IDPs

- Ensure a ready flow of information to displaced populations about durable solutions

- Monitor and report on the implementation of peace agreements with particular regard to their provisions for durable solutions

To the Security Council

- Explicitly integrate internal displacement issues into the terms of reference of Security Council visits and missions to post-conflict countries and regions

- Incorporate internal displacement issues explicitly into the mandates of all peacekeeping missions

- Mainstream IDPs in the reporting of UN special missions and international observers

- Ensure that all peace accords brokered by the UN systematically and explicitly address the consequences of the armed conflict on internally displaced populations, their contributions to the peace process and their needs and priorities in the post-conflict context

- Systematically and explicitly address relevant internal displacement issues in all Secretary-General's reports to the Security Council, and for that purpose prepare and disseminate a guidance note on the integration of internal displacement in reports of the Secretary-General to the Security Council

- Monitor and report on internal displacement issues in peacekeeping

- Establish awareness of and capacity to address internal displacement issues as a requirement for senior staff in peace operations, for example, Special Representatives of the Secretary-General, Force Commanders, Chief Administrative Officers, Special Envoys and peace negotiators

To UN agencies

- Support IDP reintegration through specific programs for example targeting food security; household income generation; access to basic services; and availability and access to infrastructure and markets

- Ensure that development plans support durable solutions for the displaced

- Decentralize programs to reach IDPs in remote and neglected areas

- Work with both returning IDPs and non-displaced communities to which they return in order to avoid resentment

- In efforts to restore the rule of law, ensure that the rights of IDPs to property restitution are upheld

- Pay particular attention to the needs and vulnerabilities of female-headed IDP households

To the Peacebuilding Commission

- Emphasize durable solutions for IDPs in all states on its active agenda

- Encourage its members and states on its active agenda to incorporate the Guiding Principles on Internal Displacement in national laws and policies

- Provide ongoing oversight, monitoring and assessment of peace-building activities with attention on IDPs

- Mainstream internal displacement in its coordination activities for relevant UN agencies, international financial institutions and other bodies

- Advise the Security Council on how to address IDPs in its future resolutions on particular country or thematic issues

Annex I

Case study report summaries: Colombia, Georgia, Sri Lanka, Sudan

Colombia
The Participation of Internally Displaced Persons in Peace Processes in Colombia[1]

Introduction

The report summarized here is based on interviews with IDP organizations, members of the national working group on IDPs, and representatives of relief organizations and the international community working in Colombia.

There are as many as three million IDPs in Colombia today and they do not form a homogenous group - they come from different backgrounds, have had different experiences, and belong to different communities and organizations. Despite these differences there seem to be commonalities in their priorities for peace. The major concerns of IDPs in Colombia today include a desire to return or settle in cities in safety, the creation of a truth and justice process, compensation for losses during the conflict, and a development plan for their communities of origin. IDPs want to participate in the peace process to lobby for these priorities, but many have become disillusioned by the peace process and are skeptical of the Colombian government.

Distrust of the peace process

One reason for their disillusionment is the perception on the part of many IDPs that the peace process is not 'real' - violence is still occurring, armed groups are still very active and IDP leaders are still being assassinated. Furthermore, IDPs have participated in previous negotiations to end the conflict between 1994 and 1998, but these were not only largely unsuccessful but also led to the stigmatization of the displaced.

Many IDPs also believe that the government does not care about the displaced and is endorsing violence. This skepticism remains strong particularly because they have yet to see a significant impact from any of the demobilization and disarmament programs enacted by the government: members of armed groups are well-known but continue to act with impunity.

Another reason for their skepticism towards formal peace negotiations is that, with the exception of the Constitutional Court of Colombia, IDPs have no trust in formal state mechanisms and agencies. The legal definition of who qualifies to be listed as a displaced

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[1] This is a summary of a longer report submitted to the Brookings-Bern Project in 2006 by Robert Vidal López. entitled *Informe de Investigación sobre la Participación de los desplazados internos dentro de los procesos de Paz en Colombia: ¿Cuál participación? ¿Encontró alguna?*

person in Colombia, for example, is restrictive. Additionally, early declarations of the national rehabilitation committee tended to exclude IDPs from its list of victims. Although this has now been corrected, many IDPs have nevertheless lost faith in the process.

Mobilizing internally displaced persons for peace

In spite of these reservations, most IDPs want peace and want their demands to be heard. They have organized into a variety of groups to make these demands to the government. But it is clear that the IDP organizations in Colombia are still quite fragmented, and often perceived by the general public as disorganized and unprofessional. Through a series of laws, the government has created a national working group for strengthening the organizations of the displaced, which has a representative from each IDP organization. But there are question marks about how representative this group is – not all IDPs belong to organizations, and furthermore many organizations are weak and poorly represented. The outcome is that a few representatives from the most organized groups tend to dominate discussions.

Recently some IDP organizations have also begun to form coalitions with other victims' organizations to press home their demands. In the past these two groups have typically remained separate because they had broadly different priorities. For example, IDP organizations tended to focus primarily on rights violations; whereas victims' organizations' main concerns were reparations for physical damages. Victims' organizations have also traditionally been more politically oriented than IDP organizations which have feared reprisals. Today they are coalescing around common interests in truth, justice and reparations. One concern, however, is that the government has found it easier to manage (and manipulate) a single pressure group than having to deal with different lobbies. Another is that the specific needs of IDPs have sometimes become subsumed within broader agendas.

Settlement and property

Some IDPs want to return to their homes and land, especially Afro-Colombians and indigenous populations because of their cultural ties to the land. They have stressed that reparations will be a primary prerequisite for making their return sustainable. They also want a guarantee that armed groups will not be allowed to return, which, in their opinion, would risk a second wave of displacement. However, it has been stipulated in a national law that members of paramilitary forces, if they demobilize, disarm, confess to crimes committed, turn over stolen property and serve prison terms, will be allowed to return to their places of origin.

The majority of IDPs, including many farmers, the youth, and urban and semi-urban populations, want to stay in the cities where they have been displaced because of greater opportunities there. They want improved access to work, healthcare, education, and other social services. They also want to be able to return to their place of origin to claim the

possessions that were abandoned when they fled, and to be compensated for those possessions that were confiscated.

Women's issues

Women's issues are another area of concern for Colombian IDPs. Once displaced and classified as IDPs, women often received more benefits and rights than before their displacement. The potential loss of these benefits has caused many of them to be hesitant to return to their original communities. Some groups are now starting to advocate for the peace processes to address women's issues, including allowing for the direct political participation of displaced women. Because women were the most affected by the conflict, it is particularly important that they have a seat at the negotiating table. Urbanization has also played a role in this process of women claiming more rights. During their displacement, women in urban areas often became the primary bread-winner as it was easier for them to find work than men.

Truth and justice
IDPs view the right to truth and justice as an essential component of the peace process, but both issues are complex. Some IDPs are concerned that a truth commission might be exploited for political purposes to justify their treatment; others recognize but are concerned that any such process would need to result in reconciliation with paramilitary groups. Justice is also difficult, mainly because the victims are so numerous and span generations. The issue of narcotics trafficking further complicates the issue, as IDPs doubt the will of the government to bring to justice those groups involved in the narcotics industry, even though they often overlap with the forces that caused their displacement.

Reparations

IDP organizations tend to refer to reparations in an economic sense, and there is some concern among IDPs that society as a whole will see them as greedy for asking for reparations. They also at times discuss reparations as a type of sanction against the society that displaced them, forcing society as a whole to recognize that rights were violated and crimes committed.

Georgia
Speaking for Themselves: Internally Displaced Persons and Public Diplomacy in Georgia[2]

Introduction

The Republic of Georgia's ongoing forced migration crises emerged from regional secession movements that began to develop in the late 1980s. The Georgian-Abkhaz and Georgian-South Ossetia conflicts displaced approximately 300,000 people, the vast majority of whom remained within Georgian borders but have yet to return to their pre-war homes. Though the most severe fighting ended in the mid-1990s, the UN and Russian brokered ceasefire in Abkhazia (The Moscow Agreement) and the Russian negotiated ceasefire in South Ossetia (The Sochi Agreement) have failed to secure a comprehensive peace settlement.

The resettlement process, hampered by continued security concerns and political stalemate over Abkhazia's and South Ossetia's claims of independence, has nevertheless exhibited opportunities for progress in recent years. In the mid-1990s, action on the Georgian IDP issue began to gain momentum at the local level. IDP groups began to organize and engage in a robust public dialogue concerning solutions to the displacement crisis. The report summarized here explores the roots of these self-directed IDP groups and reports on two IDP-involved conferences; the main points are presented below.

IDP participation in public diplomacy

As negotiations involving the UN, Russia and other foreign bodies labored, several local civil society groups launched a parallel 'track-two' peace process in the mid-1990s. In 1995 Georgian and Abkhazian civil society activists formed a joint initiative group, facilitated by the British NGO International Alert, which convened for the first time in Moscow in June 1996. This process grew in the following years into a powerful grassroots movement that created a space for Georgian IDPs to play very active roles.
The Georgian-Ossetia 'track-two' process also took root in these years. The first successful multilateral meeting was organized by the Conflict Management Group (USA) in cooperation with International Center on Conflict and Negotiation (Georgia) and hosted by the Norwegian Refugee Council in Oslo in January 1996. IDPs participated robustly in that and subsequent meetings.

The 'track-two' process expanded to include and represent other groups affected by the conflict. Strong women's organizations emerged, notably the IDP Women's Association, the Coalition of Women's NGOs of Georgia, and Women's Unity for Peace. The so-called Schlaining Process brought together officials, politicians and civic actors – including IDP representatives – from Georgia and Abkhazia. Several seminal meetings were held between Georgian and Abkhazian soldiers. Another dialogue, organized by

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[2] This is a summary of a longer report submitted to the Brookings-Bern Project in 2006 by the International Center on Conflict and Negotiation, Georgia.

Conciliation Resources (UK), University of California, Irvine, and a consortium of Georgian NGOs, has brought together Georgian and Abkhazian civic activists since 1996 and continues today.

Hard-line groups within the Georgian IDP community led by Tamaz Nadareishvili, Head of the Abkhazian Government-In-Exile, protested against the 'track-two' process, arguing that its conciliatory measures and program of 'temporary integration' were de-motivating IDPs to return home.

Adding momentum to the 'track-two' process

In 2006, two large-scale conferences were held to build on the 'track-two' process and strengthen relations between government and civil society actors in Georgia. On the table at the conferences was the Georgian government's new 'State Strategies on IDP Integration.' At the first meeting IDP and civil society groups discussed the new state program. At the follow-up meeting representatives of the government were invited, providing a forum for dialogue on official IDP strategies.

The first meeting was held on 3 May 2006 in Tbilisi, organized by the International Center on Conflict and Negotiation (ICCN), and attended by representatives of local NGOs, various IDP organizations, UNDP, the office of the Public Defender, and the Ministry of Refugees and Accommodation.

Its principal conclusions were as follows:

- There is a pressing need for monitoring the current social, economic and political situation of IDPs in Georgia;

- Current 'compact settlements' for IDPs do not provide acceptable living conditions;

- IDPs – especially IDP children - are facing discrimination in their current places of temporary residence;

- There is a perception among the general public that IDPs are living off the welfare state and at the expense of taxpayers; and

- Georgian NGOs should coordinate their efforts to address the concerns of IDPs.

After the second meeting, held in Tbilisi on 17 May 2006 and attended by representatives of the Ministry for Refugees and Accommodation, a decision was taken to form four working groups - focusing on social aspects, housing conditions, economic issues, and legal rights – to work towards better understanding of and solutions for IDPs concerns in Georgia. Based on their input the Government of Georgia adopted on 31 January 2007 the 'State Strategy on Internally Displaced Persons'. A work-plan to implement this strategy is currently being developed.

Sri Lanka
Internal Displacement and Effective Integration into the Peace Process[3]

Introduction

The six rounds of Peace Talks that followed the Cease Fire Agreement of February 2002 in Sri Lanka specifically addressed issues pertaining to IDPs. The first round, for example, established a joint task force in Humanitarian and Reconstruction Activities charged with identifying, financing and monitoring urgent humanitarian and reconstruction activities in the North and East of the country. The second round established a Sub-Committee on De-escalation and Normalization, one of the functions of which was to settle property disputes. The third and fourth rounds maintained a general focus on humanitarian action and rehabilitation, while the fifth round developed an Action Plan for Accelerated Resettlement in the Jaffna district. The sixth session maintained this momentum.

Despite high-level and consistent attention to their needs through these peace negotiations, the plight of IDPs in Sri Lanka today is arguably worse than ever before. A stalemate has been reached in peace negotiations, culminating in the collapse of peace talks in Geneva in October 2006. There is continuing insecurity in many areas, as well as practical problems such as land mines, while 'High Security Zones' are a particular impediment to IDP return. The challenges of resolving the IDP crisis have also been made more extreme through the new displacement resulting from the tsunami on 26 December 2004, which trebled the number of IDPs in the country at the time.

In this context, the report summarized here considers new options for IDPs to participate in achieving peace in Sri Lanka.

Grassroots initiatives

There are numerous grassroots initiatives towards peace in Sri Lanka, mainly undertaken by civil society organizations, international and local NGOs. Although some of these do include IDPs, there is no formal representation mechanism for IDPs in any of the more prominent initiatives. Furthermore, while such grassroots initiatives may be resolving local conflicts in some instances, there is limited evidence that they are having any impact at the wider sub-regional or national level.

It is recommended that grassroots initiatives provide for formal representation of IDPs, and also that their overall capacity is strengthened to become better integrated in wider peace initiatives.

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[3] This is a summary of a longer report submitted to the Brookings-Bern Project in 2006 by the Consortium of Humanitarian Agencies, Sri Lanka.

Legal frameworks

There are some legal structures that help address IDP issues in Sri Lanka. These include: District Courts which deal in particular with land issues; the Bar Association of Sri Lanka and in particular its Legal Aid Programme; the Human Rights Commission; the Legal Aid Commission which in particular assists women and children; and Mediation Boards. Most of these structures, however, are not operational across the whole country, and especially in the North.

It is recommended that these legal structures are strengthened and their geographical coverage made more comprehensive.

Political representation

While the government has made genuine attempts to enfranchise the displaced, many IDPs in Sri Lanka have no formal political representation, which is a prerequisite to effecting political change through democratic means. The voting system itself is inconsistent and often mitigates against the inclusion of IDPs. Even where IDPs do have political rights, insecurity and fear of reprisals has often prevented them from turning out at elections. Additionally certain groups are particularly marginalized, especially Muslims in the North East.

Greater coordination between different districts is recommended, to enable IDPs to register and vote wherever they are settled.

Specific categories

Certain groups within the IDP communities are especially powerless to interact with peace processes, in particular women and children – even where their equality in law is recognized. In contrast to other countries, there are very few women's organizations in Sri Lanka that have advocated for the rights of the displaced – one exception is 'Soorya', a Tamil women's organization that emerged within displaced communities in Jaffna. While there are top-level women in certain sectors of the Sri Lankan bureaucracy, there are doubts that they have properly represented the priorities of women in civil society.

It is recommended that to strengthen representation for women in particular, greater emphasis on local level democratic structures is required.

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Conclusion

'Track-one' peace processes in Sri Lanka have failed, and there is an overarching need for the international community to remain committed to working towards peace. 'Track-two' and 'track-three' processes are numerous and have potential – at least to achieve conflict-resolution at the local level – and international and local NGOs in particular have a role to play in strengthening these initiatives and their impacts. However, it is unlikely that a lasting peace will be achieved whichever 'track' is pursued, unless the priorities of IDPs in Sri Lanka are mainstreamed. This report has highlighted particular areas where attention is required in this respect.

Sudan
Internally Displaced Persons and Implementation of Sudan's Peace Process[4]

Introduction

It has been estimated that there are over four million refugees and IDPs from Southern Sudan, around two million of whom are in and around Khartoum. This figure does not include the displaced from Darfur. The total number of returnees to Southern Sudan and the transitional areas was estimated at around one million by the UN in 2006. The displacement crisis is highly politicized and there is mutual hostility between the displaced communities and the Government of Sudan.

The Comprehensive Peace Agreement

In 1994, the Intergovernmental Authority on Development (IGAD), the regional economic group that includes Sudan, began facilitating a peace process between the Sudan People's Liberation Movement Army (SPLMA) and the National Congress Party (NCP), hosted by the Government of Kenya. The negotiations were difficult from the onset, and proceeded in the midst of a violent conflict.

Its first major accomplishment was ratification of the Declaration of Principles, which established the right to self-determination. The Machakos Protocol, signed on 20 July 2002, provided a framework for addressing the conflict's central issues. It proposed an integrated response that included the core agenda of displaced persons: repatriation, resettlement, rehabilitation reconstruction and development. This in turn set the stage for substantive negotiations around critical issues of power-sharing, wealth-sharing, security and contested areas in Sudan. Three years later, on 9 January 2005, the parties to the conflict signed the treaty known as the Comprehensive Peace Agreement (CPA).

Internally displaced persons and the peace process

Despite the significance of resolving displacement as an integral part of achieving peace, there were few instances of formal IDP representation at negotiations for the CPA. It was argued by some that this was unnecessary as the SPLMA, being a popular movement with a deep presence in the war-affected communities of the South, was the *de facto* representative of IDPs at the CPA. But what was lacking, nevertheless, were formal voices representing organized, non-militarized communities of displaced persons.

As a result, a series of 'bottom-up' or 'track-three' initiatives have evolved in Sudan among IDPs and other parts of civil society. Unusually, peace processes at the local level have had a demonstrable impact on peace-making at the national level. 'People-to-people' peace processes began with the Wunlit Peace Agreement in 1999 between the Dinka and Nuer communities. A second example was the Akur Peace Agreement of 2000 between Ngok Dinka and Missiriya. Together these agreements sent out the

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[4] This is a summary of a longer report submitted to the Brookings-Bern Project in 2006 by Daniel Deng.

message that counter-insurgency warfare was losing its local base, and that negotiation was possible across the North-South border.

In the context of peace emerging from the grassroots, the international community successfully pushed the main parties to the conflict towards a negotiated settlement, after a decade of talks. Now the CPA, established at a national level, can promote justice and equity at a local level and, in turn, strengthen the local base for national peace.

The positive impact of local 'people-to-people' peace efforts has been acknowledged by the international community. In 2001 the US Agency for International Development (USAID) launched the Sudan Peace Fund to support such efforts. Its strategic aid helped buttress local peace campaigns across Southern Sudan and support follow-through initiatives related to the Akur Peace Agreement. Building on lessons learned from the Sudan Peace Fund, USAID's more recent program on 'People-to-People Peace-building for Southern Sudan' seeks to target and mitigate local conflicts that could escalate and threaten implementation of the CPA. With a focus on five urban centers of Southern Sudan (Juba, Yei, Wau, Malakal and Aweil) as well as the three areas of Abyei, Nuba Mountains and Southern Blue Nile, the strategy is to build local capacities for conflict resolution. The project calls for applicants to demonstrate specifically how they will involve women, youth and IDPs and returnees in their programs.

Traditional leaders as representatives of internally displaced persons

Beginning with the Chukudum Conference in 1994 when the SPLMA restored to village governments their traditional jurisdiction, traditional authorities that had eroded under colonial rule began to be revitalized. Following this trend, the Government of Southern Sudan committed itself to strengthening traditional administration through its 2004 Local Government Framework, which designates an integral role in governance for traditional authorities.

Traditional Authorities have the great advantage of long experience in conflict resolution, facilitating reconciliation and compensatory justice. In addition, the institutions of traditional justice are deeply embedded in community life and thus currently command greater respect than statutory courts. In a USAID-sponsored study, 83 percent of respondents said that chiefs were the primary actors in resolving disputes.

From June 29 to July 12 2004, the SPLM Peace Secretariat convened the first ever National Conference of Chiefs and Traditional Leaders in Kamuto, Kapoeta County, Southern Sudan. The assembled Kings, Chiefs and other traditional leaders represented the interests of the displaced communities of Southern Sudan, and many of the resolutions at the conference subsequently had a direct bearing on the plight of the internally displaced. The conference was an important benchmark in Sudan's peace process, indicating how traditional authorities might serve as potent advocates for the displaced. Specifically, the conference:

'…encouraged the resettlement and reintegration of our internally displaced persons and refugees to return to their homes and country, develop viable and attractive programs that shall facilitate the resettlement and reintegration of the internally displaced and exiled members of our communities, and develop specific and viable programs that attract and target the highly skilled professionals amongst our internally displaced and exiled communities to return and actively participate in our reconstruction and development programs.'

Implementation

Implementation of the CPA includes formation of the Interim National Constitution and the Interim Constitution of Southern Sudan, the latter of which provides for a Local Government Board to oversee the development of a Local Government Act to frame the powers of government at the levels of county, *payam* and *boma*, as well as their relationship to other levels of government and to traditional administrations. The Local Government Recovery Program is funded by European donors and implemented by a consortium of international aid agencies. It works with the Office of the President of the Government of Southern Sudan to develop the legal and policy framework for local government, build the capacity of local government at the county level, facilitate integrated and standardized strategic planning for recovery and development, and ensure that local government is perceived as a legitimate authority by the people of Southern Sudan.

Annex II

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Annex III

Guidelines for international mediators in addressing displacement in peace negotiations[1]

It is recommended by the International Council on Human Rights that international mediators seek to ensure that the following questions relating to displacement are considered in peace negotiations:

1. Are people already returning home, and if so, what immediate protections and logistical arrangements need to be quickly established?

2. What longer-term measures will be necessary to sustain return, in safety and with dignity?

3. What process of consultation with relevant populations will be used? How will their wishes and concerns be taken into account?

4. Was forcible displacement part of the conflict?

    (a) Was it a by-product or a key tool for achieving military or political gains?

    (b) Has land been formally or informally reallocated, and over what period of time?

    (c) Has the ethnic character of particular homelands changed?

    (d) To what extent can human rights protections be made effective for groups who constitute minorities in their area? Are special provisions necessary?

5. How long has the conflict lasted, and what are the wishes of displaced populations regarding return?

6. What are the conditions in the country or region of return?

7. Who will provide information on home conditions to refugees and displaced persons, and how?

8. What mechanisms for return and reintegration can be used?

9. Which organizations will be necessary to ensure return in safety and with dignity?

10. Who will monitor return and the treatment of returnees?

11. Which organizations will be necessary to long-term sustainability, and legal, physical and social security needs of refugees?

12. Does displacement need to be dealt with within the framework of the main agreement, or can it be dealt with as a side matter? Is there a need for a general statement which will enable a mechanism dealing with return to be developed?

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[1] International Council on Human Rights Policy (ICHRP) (2006) *Negotiating Justice? Human Rights and Peace Agreements*, Geneva: ICHRP

13. Would a multi-party agreement also involving relevant international organizations be useful to coherent implementation?

14. Do property rights need to be dealt with?

    (a) Are legislative changes needed?

    (b) Are special mechanisms needed?

    (c) How will clashes of property rights be dealt with?

    (d) Are there funds available for compensation?

    (e) What will be the implications of the property issue for socio-economic sustenance of local populations?

15. What are the domestic institutional arrangements for ensuring implementation of human rights in the country and regions of return?

16. Will general human rights frameworks assist refugees and displaced persons or do any special provisions need to be included?

17. Do particular categories of returnees, for example women, have special needs that should be addressed?

18. Are provisions dealing with amnesty for returnees compatible with international law?

Annex IV

The Role of UN Agencies in Peace-building[1]

Agency	Role	Focus
UNDP	Crisis prevention and recovery	• Addressing development dimensions of conflict prevention and peace-building • Assisting national stakeholders in building capacity for crisis prevention • Bridging the relief -development gap through support to early recovery mechanisms
UNICEF	Child health, education, equality, protection	• Protection of children from violence, exploitation, abuse and discrimination
UNIFEM	Making women central in peace-building	• Understanding the impact of armed conflict on women • Improving protection and assistance for women • Making women and gender perspectives central to peace processes • Fostering gender justice in post-conflict peace-building
World Bank	Conflict prevention and reconstruction for poverty reduction	• Conflict prevention
UNHCR	Protecting refugees	• Involving refugee women in peace processes
OHCHR	Promotion and protection of human rights and fundamental freedoms	• Human rights dimensions of peace-making, peacekeeping and peace-building activities
DESA	Enhancing women's role on peace-building	• Capacity and network-building for women in Africa on peace-building

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[1] UN General Assembly (2003) *Review of Technical Cooperation in the United Nations*, Report of the Secretary-General, A/58/383

DPKO	Peace-building as a component of peacekeeping	• Maximum policy coherence between peacekeeping operations and peace-building work of DPA and other departments, agencies, funds and programs
DPA	Focal point in UN for post-conflict peace-building	• Consolidating internal and external security • Strengthening political institutions and good governance • Promoting economic and social development and rehabilitation activities • Supporting internal policy dialogue and national reconciliation

Annex V

The Peacebuilding Commission

Background

The concept of a Peacebuilding Commission was introduced in December 2004 in a UN High-Level Panel Report, and gained momentum in March 2005 with the release of then-Secretary-General Kofi Annan's report, *In Larger Freedom.* Annan noted a 'gaping hole' in the UN's efforts to assist countries recovering from conflict to make the transition from war to lasting peace. Since no part of the UN system was directly responsible for helping countries to rebuild and to establish peace after a conflict ends, the Secretary-General proposed creating a permanent Peacebuilding Commission, supported by the Peace Building Support Office and the Peace Building Support Fund.

Mandate

The Security Council and the General Assembly gave the PBC the following tasks:

- To bring together all relevant actors to marshal resources and to advise on and propose integrated strategies for post-conflict peace-building and recovery;

- To focus attention on the reconstruction and institution-building efforts necessary for recovery from conflict and to support the development of integrated strategies in order to lay the foundation for sustainable development; and

- To provide recommendations and information to improve the coordination of all relevant actors within and outside the UN, to develop best practices, to help to ensure predictable financing for early recovery activities and to extend the period of attention given by the international community to post-conflict recovery.[1]

Function

The Peacebuilding Commission is supposed to strive for regional balance in the countries under its consideration. The Security Council and General Assembly resolutions stipulate four different grounds for the PBC to take up a case:

- Requests for advice from the Security Council;

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[1] UN Security Council Resolution 1645 (20 Dec. 2005); UN General Assembly Resolution 60/180 (20 Dec. 2005)

- Requests for advice from the ECOSOC or the General Assembly with the consent of a concerned member state in exceptional circumstances on the verge of lapsing or relapsing into conflict and with which the Security Council is not seized in accordance with Article 12 of the Charter;

- Requests for advice from Member States in exceptional circumstances on the verge of lapsing or relapsing into conflict and which are not on the agenda of the Security Council; and

- Requests for advice from the Secretary-General.

Membership

Several months of debate ensued, as UN member-states negotiated the size, composition and exact mandate of the Peacebuilding Commission. In late 2005, differences were resolved and simultaneous resolutions approved in both the General Assembly and the Security Council, creating the Peacebuilding Commission. In May 2006, the membership of the Peacebuilding Commission's Organizational Committee was announced as the following:

- Seven members of the Security Council: The five permanent members: China, France, Russia, United Kingdom and the United States; and two non-permanent members: Tanzania and Denmark

- Seven members elected by the Economic and Social Council (ECOSOC): *Africa*: Angola, Guinea Bissau; *Asia*: Sri Lanka, Indonesia; Eastern Europe: Poland; *Latin America/Caribbean*: Brazil; *Western Europe/Other*: Belgium

- Five of the top ten financial providers to UN Peacekeeping: Japan, Germany, Netherlands, Italy, Norway

- Five of the top ten providers of military personnel and civilian police to UN Peacekeeping: Pakistan, Bangladesh, India, Nigeria, Ghana

- Seven additional members elected by the General Assembly: *Africa*: Burundi, Egypt; *Asia*: Fiji; *Eastern Europe*: Croatia; *Latin America/Caribbean*: El Salvador, Jamaica, Chile

One of the most innovative elements in the Peacebuilding Commission is the additional participation of the World Bank, the International Monetary Fund and other institutional donors.