

## International Perspectives on Solutions

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I am pleased and honored to participate in this conference on solutions to displacement in Colombia.<sup>1</sup> The Brookings Project on Internal Displacement has been working on issues of internal displacement for almost 20 years and is co-directed by the UN Special Rapporteur on the Human Rights of Internally Displaced Persons, a position currently held by Dr. Chaloka Beyani, a professor of international law at the London School of Economics. Although Dr. Beyani has not yet visited Colombia, like his predecessors Francis Deng and Walter Kälin, he is following developments in Colombia quite closely.<sup>2</sup> He asked me to convey to you his strong support for this conference and his fervent hopes that the conference makes tangible progress in finding durable solutions for Colombia's many IDPs.

I have been asked to speak on international experiences in finding solutions for displacement, but before embarking on that task, I want to underline the importance of this particular historic moment. Colombia has been a model for governments of many different countries because of its strong judicial tradition, comprehensive legislation, the very important decisions by the Constitutional Court and now the *Ley de Víctimas y Restitución* or Law on Victims and Land Restitution (Law 1448 of June 2011).<sup>3</sup> We have often cited Colombia as an example when working with other governments who are in the process of developing legislation on internal displacement. We hope to be able to share the experiences of this conference with other governments, international actors and civil society organizations who are seeking solutions for internal displacement in their own contexts.

The main factor in finding support for durable solutions for IDPs is political will. While resources are usually never enough, the importance of political will cannot be underestimated. Colombia today stands out because of its commitment to finding solutions. There are particular difficulties in Colombia because the conflict is not over. Even as we are meeting to find solutions for IDPs, new displacements are occurring. But, we believe that Colombia can continue to be a model for the rest of the world in the way in which it is mobilizing support – both within the country and internationally – for durable solutions.

### What are solutions? How do we know when displacement ends?

Displacement is a life-changing event. While the often traumatic experience of displacement cannot be undone, IDPs need to be able to resume a normal life by achieving a durable solution. There are three durable solutions to internal displacement: sustainable reintegration at the place of origin; sustainable local integration in areas of displacement; and sustainable integration in another part of the country. The Guiding Principles on Internal Displacement stipulate, in Principle 6, that “displacement shall last no longer than required by the circumstances.”<sup>4</sup> Drawing on existing international law, the right of internally displaced persons to a durable solution is articulated in Principles 28–30, which spell out the

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<sup>1</sup> Government of Colombia, UNHCR and UNDP, Conference on Durable Solutions for the Displaced Population: International and National Experiences [Conferencia Soluciones Sostenibles para Población Desplazada], Bogotá, Colombia, 28-29 May 2013, [www.acnur.org/t3/noticias/noticia/soluciones-duraderas-para-la-poblacion-desplazada-en-colombia](http://www.acnur.org/t3/noticias/noticia/soluciones-duraderas-para-la-poblacion-desplazada-en-colombia)

<sup>2</sup> For reports and statements by Deng and Kalin on Colombia, see Brookings-LSE Project on Internal Displacement, “UN Mandate,” [www.brookings.edu/about/projects/idp/un-mandate](http://www.brookings.edu/about/projects/idp/un-mandate)

<sup>3</sup> The decisions and law are available at: Brookings-LSE Project on Internal Displacement, “IDP Laws and Policies Index: Colombia,” [www.brookings.edu/about/projects/idp/laws-and-policies/colombia](http://www.brookings.edu/about/projects/idp/laws-and-policies/colombia)

<sup>4</sup> UN Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, 1998, [www.brookings.edu/about/projects/idp/gp-page](http://www.brookings.edu/about/projects/idp/gp-page)

responsibilities of national authorities, and the role of humanitarian and development actors to assist durable solutions. Principle 28 recognizes that the competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, that allow IDPs to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Leaving IDPs in continued marginalization without the prospect of a durable solution not only violates their rights, but may become an obstacle to long-term peace, stability, and development.

Building on the Guiding Principles, the IASC Framework on Durable Solutions for Internally Displaced Persons aims to provide guidance – primarily to international and non-governmental actors, but also to governments and IDPs themselves – for achieving durable solutions following internal displacement in the context of armed conflict, situations of generalized violence, violations of human rights and natural or human-made disasters.<sup>5</sup>

The 2010 Framework on Durable Solutions was developed over a period of several years on the basis of many studies and consultations. A pilot version was issued in 2007 and then revised to reflect the results of field testing. The initiative for the framework came from the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, working in close cooperation with both humanitarian and development agencies. In developing this framework, the first question addressed whether durable solutions should be linked to the cause of the displacement or to the needs of IDPs. There is often an assumption, for example, that when a conflict ends and a peace agreement is signed that displacement automatically ends. And yet there are many, many cases where the initial cause of displacement no longer exists, and yet IDPs are not able to find durable solutions. The framework is, therefore, based on the needs of IDPs – rather than on resolution of the causes of displacement.

The framework asserts that ‘a durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement. This means that finding solutions to displacement does not require that IDPs have a certain standard of living or access to services but that they do not face discrimination because of their displacement.

As outlined in the Framework, a number of criteria determine to what extent a durable solution has been achieved. IDPs who have achieved a durable solution will enjoy, without discrimination:

- Long-term safety, security and freedom of movement;
- An adequate standard of living, including at a minimum access to adequate food, water, housing, health care and basic education;
- Access to employment and livelihoods;
- Access to effective mechanisms that restore their housing, land and property or provide them with compensation.

Let me make four points with respect to these criteria (which are spelled out in much more detail in the Framework). First is the importance of long-term safety, security and freedom of movement. People have to *be* safe and to *feel* safe in order for a durable solution to be achieved. In order for a decision on solutions to be voluntary, IDPs need to have a genuine choice between alternatives. For example, in Iraq today, there are reports of internally displaced persons returning to their communities not because they think it is safe and the best possible solution, but because their resources are running out or they are being evicted from their temporary homes. In these circumstances, the decision to return is not a voluntary one.

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<sup>5</sup> Brookings-Bern Project on Internal Displacement, *Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons*, April 2010, [www.brookings.edu/research/reports/2010/04/durable-solutions](http://www.brookings.edu/research/reports/2010/04/durable-solutions)

Without security in their place of origin, IDPs cannot return. Over and over again, in situations as diverse as Iraq, Sierra Leone and Nepal, the principal impediment to finding solutions for IDPs is security. There are many cases where the presence of armed groups can create a serious obstacle to return, particularly when the armed groups were responsible for the displacement. Walter Kälin, the former Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons, noted that in these cases, it is necessary to either disarm these groups, to integrate them into the post-conflict armed forces, or relocate them to other parts of the country to give returnees a sense of security. 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 and such impunity may create new tensions, endangering a fragile peace as in Georgia and Bosnia and Herzegovina. This overarching need for security is of particular concern in Colombia, where conflict and violence continue in some parts of the country.

Secondly, according to the framework, the key criteria are access to employment and effective mechanisms for restitution or compensation for property. Typically issues around restitution and compensation take a long time; IDPs can be considered to have found a durable solution before they have had their land returned, but they must have access to mechanisms for this restitution. Similarly, IDPs do not have to have found jobs before they can be considered to have found a solution, but they do need to have access to employment and livelihoods and not face discrimination because they were displaced.

Thirdly, the framework asserts that achieving a durable solution is a process rather than a particular end-point. Both integration into host communities and reintegration into communities of origin take time. They don't happen on a given day, but, rather, develop over time. While governments and international agencies sometimes want to be able to say 'we can close this file, we don't have IDPs any longer,' in fact the process of attaining a durable solution takes time.

And finally, there have been very few efforts to systematically apply these criteria to particular situations to determine whether durable solutions have been achieved. Yet, perhaps it is not possible to come up with quantitative indicators which would apply to very different situations of displacement. Together with the Internal Displacement Monitoring Centre, we organized a research/consultation process on solutions in six countries, with a particular focus on local integration: Burundi, Colombia, Georgia, Serbia, South Sudan, and Uganda.<sup>6</sup> There were major differences between these cases. In Burundi, 90 percent of the IDPs (who had been displaced for 17 or so years) wanted to integrate locally but the major impediment was security of tenure. They were afraid to return to their homes because of fears of their neighbors but were afraid of being evicted from their homes in their new settlements. In contrast, over 90 percent of Ugandan IDPs who had been displaced for 5-10 years, wanted to return home. The strong ties to their land meant that it was almost inconceivable for most to envision another solution. In both Georgia and Serbia (displaced Kosovar Serbs), there was no possibility of return because of political reasons, but governments were reluctant to support local integration because it was seen as abandoning hope of reclaiming territory. The possibility of integration as an 'interim solution' was actively discussed.

## **Experiences of return**

IDPs are not a monolithic group and their settlement preferences vary based on their personal experience and circumstances of conflict and displacement, even within one family. Individuals, families or groups from specific areas may choose local integration even if return is considered possible by others. They may also prefer to take advantage of multiple settlement options at once, for example by commuting to their

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<sup>6</sup> Elizabeth Ferris, ed., *Resolving Internal Displacement: Prospects for Local Integration* (Washington, D.C.: Brookings-LSE Project on Internal Displacement, June 2011)  
[www.brookings.edu/reports/2011/0601\\_protracted\\_displace\\_local.aspx](http://www.brookings.edu/reports/2011/0601_protracted_displace_local.aspx)

area of origin to work their land while having their principle residence in their area of displacement. Their intentions may also change over time and according to their area of displacement, as indicated by internally displaced Iraqis.<sup>7</sup>

However, governments usually have political reasons for stressing return over other options as it represents a return to the status quo that existed before the conflict broke out. In Kosovo and Azerbaijan, for example, governments are reluctant to abandon the idea that the IDPs will one day return to their communities of origin. Such governments have usually limited their provision of assistance for local integration for fear that it would prevent the return of IDPs. In other countries such as Iraq and Bosnia and Herzegovina, the return of IDPs is promoted in order to reverse the demographic impact of conflict and the accompanying ‘ethnic cleansing’ despite the fact that some IDPs fear living alongside their former neighbours. On a practical level, return may be perceived as the least disruptive option, as governments, for example, do not have to find new land for IDPs who return to their communities. Perhaps reflecting government preferences, the general international response has similarly focused on return as the desired solution to internal displacement.<sup>8</sup> The preferential support for return by political authorities and international organisations can be justified as long as it matches IDPs’ genuine preferences.

Let me now turn to a discussion of two cases where there have been large-scale returns of IDPs after a peace agreement was signed. First is the case of Nepal where, the signing of the Comprehensive Peace Agreement (CPA) in November 2006 spurred the return of tens of thousands of IDPs. Provisions of the CPA pertaining to durable solutions for the displaced included commitments to rehabilitate people displaced by the war, to return occupied land and property and to allow for the return of displaced persons. While Nepal’s National Policy on Internally Displaced Persons (2007) includes provisions for return, integration or resettlement, relief assistance packages were available only to those who return.<sup>9</sup> In 2007 the government launched a relief assistance effort – a three-year program funded by the Nepal Peace Trust Fund (NPTF) to implement the CPA. The assistance, in the form of “state relief and assistance packages” was limited to officially-registered IDPs who were willing to return to their place of origin. There were many problems in implementing these provisions – in some cases, up to half of IDPs were have been unable to register for assistance. There were serious problems with recovery of land and reports of discrimination for returning IDPs. Violence continues in some cases and some areas of return lack services. It is hard to conclude that durable solutions have been achieved.<sup>10</sup> But most of the IDPs have returned; those who have found other solutions on their own likely did so because of security concerns and problems with land restitution.

In Uganda, the signing of the Cessation of Hostilities Agreement in 2006 opened up meaningful possibilities for return, which gained significant momentum in 2008. In 2004, in the National

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<sup>7</sup> IOM Iraq, *Review of Displacement and Return to Iraq, August 2010*, 3, [www.iomiraq.net/iomdmyear.html](http://www.iomiraq.net/iomdmyear.html). IOM’s research is based on the 1,272,000 individuals to whom IOM has access through its field assessment teams.

<sup>8</sup> A study by Brookings analyzing the 120 Security Council resolutions which have referred to displacement over the past 10 years found that only three mentioned solutions other than return. Sanjula Weerasinghe and Elizabeth Ferris, *Security Council, Internal Displacement and Protection: Recommendations for Strengthening Action through Resolutions* (Washington, D.C.: Brookings-LSE Project on Internal Displacement, September 2011) [www.brookings.edu/reports/2011/09\\_security\\_council\\_resolutions\\_ferris.aspx](http://www.brookings.edu/reports/2011/09_security_council_resolutions_ferris.aspx)

<sup>9</sup> For the full text of the policy, see Brookings-LSE Project on Internal Displacement, “IDP Laws and Policies Index: Nepal,” [www.brookings.edu/about/projects/idp/laws-and-policies/nepal](http://www.brookings.edu/about/projects/idp/laws-and-policies/nepal)

<sup>10</sup> Elizabeth Ferris, Erin Mooney and Chareen Stark, *From Responsibility to Response: Assessing National Approaches to Internal Displacement* (Washington, D.C.: Brookings-LSE Project on Internal Displacement, November 2011), p. 132, [www.brookings.edu/reports/2011/11\\_responsibility\\_response\\_ferris.aspx](http://www.brookings.edu/reports/2011/11_responsibility_response_ferris.aspx); see also, Internal Displacement Monitoring Centre’s Nepal page, available at: [www.internal-displacement.org](http://www.internal-displacement.org)

Policy for Internally Displaced Persons, the government had already committed itself to securing durable solutions to displacement.<sup>11</sup> Following the cessation of hostilities, the government conducted demining campaigns in return areas and introduced guidelines on the return process and camp phase-out operations. The government's Peace, Recovery and Development Plan for Northern Uganda (PRDP), which included as a strategic objective the facilitation of the voluntary return and resettlement of IDPs from camps, became operational in July 2008.<sup>12</sup> The PRDP sought to address the root cause of marginalization in the North and to support durable solutions in the context of peace and development in the country. As was the case in Nepal, there were difficulties in implementation, particularly in ensuring that all IDPs received the "resettlement packages" referred to in the National Policy for Internally Displaced Persons. Within about a year, roughly 80 percent of the 1.8 million IDPs had returned to their homes or to transit sites near their places of origin; and as of mid-2012, only about 30,000 remain in the camps – mostly those without land or extremely vulnerable cases.<sup>13</sup>

### Local integration<sup>14</sup>

There remain a number of displacement situations in which IDPs cannot or will not return. Whether local integration is a genuine choice, IDPs' last resort or simply a temporary solution, support is needed to normalise their lives at their current location. Given that there are at least 40 countries where IDPs live in protracted displacement, local integration as a settlement option for IDPs needs to be considered equally with return and settlement elsewhere in the country in terms of funding, policy development and programming according to the genuine preferences of IDPs and possibilities of these options.

Georgia, for example, acknowledged the right of IDPs to local integration in its 2007 State Strategy for IDPs, accepting that return would not be possible anytime soon.<sup>15</sup> Turkey did likewise in a national strategy framework document issued in 2005.<sup>16</sup> More recently, in early 2011, Iraq put in place a durable solutions strategy, which shifted its focus on return of IDPs to include other settlement options. Other governments such as Nepal and Burundi have also acknowledged local integration as an option for IDPs in their peace agreements, in addition to return and settlement elsewhere in the country. Burundi, Bosnia and Herzegovina, Croatia, the Russian Federation and Serbia have also made some efforts to facilitate the local integration of IDPs. However, despite the acceptance of other settlement options, the return of IDPs has remained the preferred option of these governments.

The support for local integration of IDPs has thus far meant offering land and housing solutions through social housing, construction grants in the place of displacement, new housing and cash assistance, and legal assistance in countries like Cyprus, Serbia, Georgia and the Russian Federation. Other initiatives to support local integration include admission of internally displaced children to schools in areas of displacement and training internally displaced teachers in stress management, namely in Senegal and Niger. Improving IDPs' socio-economic integration through improved food security, access to

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<sup>11</sup> For the full text of the policy, see Brookings-LSE Project on Internal Displacement, "IDP Laws and Policies Index: Uganda," [www.brookings.edu/about/projects/idp/laws-and-policies/uganda](http://www.brookings.edu/about/projects/idp/laws-and-policies/uganda)

<sup>12</sup> Ibid.

<sup>13</sup> See further, Elizabeth Ferris, Erin Mooney and Chareen Stark, *From Responsibility to Response: Assessing National Approaches to Internal Displacement*, November 2011, pp. 133-135; see also, Internal Displacement Monitoring Centre's Uganda page, available at: [www.internal-displacement.org](http://www.internal-displacement.org)

<sup>14</sup> This section is drawn from Elizabeth Ferris, ed., *Resolving Internal Displacement: Prospects for Local Integration*, June 2011.

<sup>15</sup> For the full text of the policy, see Brookings-LSE Project on Internal Displacement, "IDP Laws and Policies Index: Georgia," [www.brookings.edu/about/projects/idp/laws-and-policies/georgia](http://www.brookings.edu/about/projects/idp/laws-and-policies/georgia)

<sup>16</sup> For the full text of the policy, see Brookings-LSE Project on Internal Displacement, "IDP Laws and Policies Index: Turkey," [www.brookings.edu/about/projects/idp/laws-and-policies/turkey](http://www.brookings.edu/about/projects/idp/laws-and-policies/turkey)



livelihoods opportunities and health care were also supported in the Philippines. Nigeria offered IDPs a status of ‘indigenes’ in some cases, which meant equal opportunities to access state jobs, state education and services with the non-displaced population.

Cyprus may be one of the better examples of local integration of IDPs without prejudice to their right to return or settle elsewhere. The government of the Republic of Cyprus provided IDPs in areas under its effective control with housing assistance and ensured their access to jobs, schools and hospitals. Today, they enjoy a similar living standard to their non-displaced neighbours. Many live in urban government housing estates built immediately after the 1974 partition of the island. Although most IDPs had agrarian backgrounds, labour policies encouraged their incorporation into the urban wage economy. Housing was the lead sector in post-conflict economic reconstruction, which contributed significantly to economic recovery after the conflict.<sup>17</sup> The government still provides assistance for IDPs to build new homes and the descendants of male IDPs are entitled to the same benefits as those initially displaced. Despite the high level of support, integration at their current residence and that displacement has endured for over 35 years, return remains the favored option of the government and of many Greek Cypriot IDPs.<sup>18</sup>

In rural areas, the lack of income generating opportunities poses the main obstacle for IDPs’ local integration. Livelihoods are, in many ways, dependent on access to land and the ability to farm. In Niger, Nigeria and Senegal, for example, a lack of arable land or limited access to land and water, and lack of seeds, mean that IDPs are not able to work the land, which would enable their local integration. IDPs also place additional pressure on already overstretched resources and livelihood opportunities in rural areas, which means that local communities do not always welcome the local integration of IDPs. Such instances can be found in Afghanistan, Chad and Yemen, among others. Discrimination is another obstacle to local integration in rural areas and may occur when the ethnic background of IDPs differs from that of the host community and IDPs are perceived as outsiders, such as the Roma IDPs in Kosovo, or the Javanese IDPs in Aceh, Indonesia.

In urban areas, inadequate housing presents the most serious obstacle to local integration of IDPs. Land is more scarce and often more valuable in urban than in rural areas, and because IDPs generally lack support for housing solutions, they tend to end up living with the urban poor in slum-like conditions, or living with their relatives or friends in crowded housing. Tenure insecurity and repeated evictions, which are often a consequence of lack of land documentation, mean that IDPs, such as certain groups in southern Sudan, do not invest in improving their houses and instead build temporary structures. While in some countries, like Georgia, Sudan and Zimbabwe, IDPs prefer to stay in urban areas because there are more livelihood opportunities, the urban environment can also pose problems for some IDPs. The absence of skills required by urban employers and problems adapting to the urban labour market, lack of cultivable land in urban settings and the inability to sustain themselves through traditional livelihood strategies have been noted as obstacles to local integration of IDPs in Armenia, Nepal, Niger and Senegal.

### **Not just national authorities**

While national authorities are responsible for supporting durable solutions, in most countries the role of municipal or territorial authorities is crucial. Municipal authorities present the most immediate interface between a government and its citizens, yet there can be a disconnect between what is decided in the capital, and the actual provision of assistance and protection to IDPs at the local level. If the rights of

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<sup>17</sup> Roger Zetter, *Reconceptualising the Myth of Return: Continuity and Transition Amongst the Greek-Cypriot Refugees of 1974*, *Journal of Refugee Studies* 12.1, 30 June 1999, pp.1-22.

<sup>18</sup> Internal Displacement Monitoring Centre, “Prospects remain dim of political resolution to change situation of IDPs,” 30 June 2009, [www.internal-displacement.org](http://www.internal-displacement.org)

IDPs are to be upheld and their needs addressed, more attention needs to be paid to the municipal level of government. Generalizations are difficult as governmental systems differ greatly. For example, in the case of Kenya, municipal authorities in Eldoret and Nairobi clearly felt that the issue of resolving displacement was a national – not a local – responsibility.<sup>19</sup> In the case of Colombia, while responsibilities are delegated under law, the lack of resources has been a major problem for mayors and other territorial authorities.<sup>20</sup>

It is important to recognize that displacement is not only a humanitarian concern, but is also a development issue. However, as has been recognized for at least 30 years and more recently at a November 2012 consultation held in Geneva on 20 years of the IDP mandate, there is a need for greater engagement of development actors on internal displacement issues.<sup>21</sup> The transitional solutions initiative here in Colombia seems to be working well and, in fact, there are reasons to believe that the possibilities of engaging development actors are better now than they have been at any other time.<sup>22</sup> Central to development actors is the principle of government ownership of development plans and yet this causes difficulties in countries, such as Sudan where the government is perceived as at least partially responsible for displacement. Sometimes, the differences between humanitarian and development actors affect solutions. For example, in Ituri in the Democratic Republic of Congo, humanitarian and development agencies worked together to support the return of displaced populations. But development actors' efforts to provide housing for the returnees could not keep pace with the rate of returns, due to slower operating and procurement procedures. While the processes adopted by agencies such as UNDP were appropriate by intergovernmental agency standards, because the populations' needs were not being promptly met, many returnees began to take branches off of trees and build their own shelters. This led to deforestation and the destruction of many hectares of land.<sup>23</sup>

### **Displacement and transitional justice mechanisms: lessons learned from other parts of the world**

From 2010-2012, we collaborated with the International Center for Transitional Justice on a research project to examine the links between transitional justice and displacement. This project sought to offer specific guidance to policymakers and practitioners in the numerous fields that share a concern with displacement, including transitional justice, humanitarianism, peacebuilding, and development.<sup>24</sup>

<sup>19</sup> Prisca Kamungi, *Municipal Authorities and IDPs Outside of Camps: The Case of Kenya's 'Integrated Displaced Persons'* (Washington, DC: Brookings-LSE Project on Internal Displacement, May 2013),

[www.brookings.edu/research/reports/2013/05/kenya-displacement-kamungi](http://www.brookings.edu/research/reports/2013/05/kenya-displacement-kamungi)

<sup>20</sup> See further: Roberto Vidal, Clara Atehortúa and Jorge Salcedo, *Desplazados Internos Fuera de los Campos. El papel de las autoridades locales en Colombia. Estudio comparado en Bogotá D.C. y Cali* (Washington, DC:

Brookings-LSE Project on Internal Displacement, May 2013),

[www.brookings.edu/research/reports/2013/05/municipal-displacement-colombia-vidal](http://www.brookings.edu/research/reports/2013/05/municipal-displacement-colombia-vidal); Brookings-Bern Project on Internal Displacement, *Protecting the Displaced in Colombia: The Role of Municipal Authorities: A Summary Report*, July 2009, [www.brookings.edu/reports/2009/07\\_colombia.aspx](http://www.brookings.edu/reports/2009/07_colombia.aspx)

<sup>21</sup> Brookings-LSE Project on Internal Displacement, Taking Stock of Internal Displacement: Twenty Years On, Report of consultation held at Château de Penthes, Geneva, November 28-29, 2012,

[www.brookings.edu/events/2012/11/28-stocktaking-idp](http://www.brookings.edu/events/2012/11/28-stocktaking-idp)

<sup>22</sup> Elizabeth Ferris, "Transitions and Durable Solutions for Displaced Persons: 21 Reasons for Optimism," Presentation at the Transitions and Solutions Roundtable, organized by UNHCR and UNDP, Amsterdam, 18-19 April 2013, [www.brookings.edu/research/speeches/2013/04/18-durable-solutions-displacement-ferris](http://www.brookings.edu/research/speeches/2013/04/18-durable-solutions-displacement-ferris)

<sup>23</sup> Brookings-LSE Project on Internal Displacement, *Internal Displacement and Development Agendas: A Roundtable Discussion with Sadako Ogata*, 14 May 2013, [www.brookings.edu/events/2013/05/14-ogata-displacement](http://www.brookings.edu/events/2013/05/14-ogata-displacement)

<sup>24</sup> See Roger Duthie, ed., *Transitional Justice and Displacement* (New York: Social Science Research Council, 2012), [www.brookings.edu/about/projects/idp/transitional-justice/tj-book](http://www.brookings.edu/about/projects/idp/transitional-justice/tj-book), as well 14 case studies, most of which focus on a specific region or country, including Central Africa, three on Colombia (by Federico Andreu-Guzmán, on criminal justice and forced displacement in Colombia, by Roberto Vidal-López, on truth-telling, and another by

Transitional justice has traditionally dealt mainly with a narrow set of the most serious civil and political rights violations committed by authoritarian regimes, such as extrajudicial executions, disappearances, and torture. And yet, displaced persons often have a critical stake in transitional justice processes and the existence of these processes can support durable solutions.

In particular, we looked at six types of transitional justice mechanisms and their relationship to displacement, and particularly to efforts to find solutions:

- **Restitution** of housing, land, and property is the form of redress perhaps most directly connected to displacement. In postwar Bosnia, for example, the restitution program processed 200,000 claims for lost homes, most of which were decided in favor of the displaced claimants. The utility of restitution has been less clear, however, in contexts such as Afghanistan, the Democratic Republic of the Congo, and Timor-Leste, where restoring the property-distribution patterns that existed prior to displacement would not necessarily be just or practicable.
- **Reparations** programs can provide benefits to victims of abuses that led to displacement, to displaced persons for harms they suffered while displaced, or for the experience of displacement itself. There have been only a few examples, though, of reparations programs providing benefits directly for displacement. In Guatemala and Peru, for instance, reparations programs include displacement as a crime that merits reparation, and in Colombia, the administrative reparations program established in 2011 anticipates providing redress for forced displacement as such.
- **Truth commissions** increasingly recognize and investigate displacement as a serious human rights problem. Commissions such as those in Liberia, Sierra Leone, Timor-Leste, and Guatemala have examined the role of displacement in conflict and occupation, as well as the suffering and stigma endured by the displaced. Truth commissions have also made recommendations that respond to the concerns of displaced persons regarding issues such as the resolution of property claims and acceptance of dual nationality.
- **Criminal prosecutions** can target the perpetrators of human rights violations that led to displacement and may also target forced displacement as a crime in itself. An international legal framework exists to prosecute forced displacement when it qualifies as a war crime or crime against humanity, including the statutes of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Court (ICC), and the Geneva Conventions.
- **Justice-sensitive security sector reform** seeks to prevent the recurrence of human rights violations, including displacement, through the transformation of safety, security, and justice institutions and the governance systems that control and oversee them. In Bosnia and Herzegovina and Kosovo, for example, reforms seeking to remove perpetrators of human rights abuses from police forces that were paired with efforts to recruit from underrepresented minority groups made a concrete contribution to enabling returns.

Probably the most important long-term contribution that transitional justice can make to resolving displacement is in facilitating the integration or reintegration of displaced persons. Integration or reintegration can be significantly hindered by legacies of past abuses. Yet the primary actors working on displacement do not generally focus on dealing directly with past abuses and their impact. Transitional justice can therefore play a positive role in supporting (re)integration in various ways. For example, truth-

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Donny Meertens, on violence and gender justice), Israel-Palestine, Kosovo, Liberia, Peru, Timor-Leste, Turkey, and the former Yugoslavia. Available at: Brookings-LSE Project on Internal Displacement, “Transitional Justice and Displacement - Case Studies,” [www.brookings.edu/about/projects/idp/transitional-justice/tj-case-studies](http://www.brookings.edu/about/projects/idp/transitional-justice/tj-case-studies)



telling efforts can contribute to social (re)integration by reducing tensions between those who stayed and those who were displaced. Truth-telling can also bring low-level offenders among the displaced together with communities to determine what steps may lead to their (re)integration. In Timor-Leste, for example, the truth commission facilitated a process through which displaced perpetrators of “less serious” crimes could acknowledge their violations, undertake reparative actions agreed upon by the community, and then return home. Reparations can also be helpful to IDPs seeking to re-establish their livelihoods.

At the same time, we need to recognize that transitional justice will not always make a tangible, positive contribution to the resolution of displacement. Transitional justice processes are long-term undertakings that can support but cannot guarantee reconciliation. Furthermore, transitional justice and durable solutions to displacement are not always mutually reinforcing. Criminal justice measures, for example, can in some cases jeopardize the neutrality, access, and safety of humanitarian groups, and may create a disincentive to return for displaced persons accused of complicity in violence. The prospect of being held accountable for forcing citizens from their homes can also increase authorities’ resistance to officially recognizing their involvement in past displacement, or permitting return movements. And actors who benefited from displacement by taking over forced migrants’ properties can impede return processes if they believe that the displaced will reclaim their properties or push for the architects of their displacement to stand trial.

Transitional justice measures also risk creating competition or divisions among conflict-affected groups, particularly around the determination of “victim” status, qualification for benefits, and the expectations that come with them. Limitations on the number of victims who benefit from reparations can generate dissatisfaction and have a detrimental effect on (re)integration, particularly if displaced persons are excluded, or if their recognition as victims crowds out attention for other groups. Given the scope and complexity of large-scale displacement, transitional justice measures have a limited capacity to deal directly with the problem, let alone resolve the many hardships faced by displaced populations. This is particularly the case with measures that seek to provide redress directly to victims, because large displaced populations present significant resource and capacity challenges. For example, providing financial compensation for lost property and the suffering of thousands or even millions of displaced persons is often simply unaffordable for transitional governments, particularly in developing countries. Technical and institutional challenges include assessing the needs and rights of displaced populations and distributing an appropriate range of benefits in an efficient and fair manner. There is, therefore, a real risk of overloading the capacity of justice measures. For instance, displaced persons are included as beneficiaries of Peru’s reparations program, but, in practice, they have not received any material benefits, in part because of limited resources and the large number of potential claimants.

### **Participation of IDPs**

In addition to being able to choose among settlement options, IDPs should be enabled to fully participate in the planning and management of their settlement and integration. The Guiding Principles specify 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 and reintegration” (Principle 28.2). There are both sound legal reasons and pragmatic reasons for encouraging the participation of IDPs in planning durable solutions. There are also sound reasons for including IDPs in peace processes and negotiations. Although IDPs have had very little role in negotiating peace agreements, there are some good examples of peace agreements which have recognized solutions for displacement as an integral part of the process.<sup>25</sup>

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<sup>25</sup> Brookings-Bern Project on Internal Displacement, *Addressing Internal Displacement in Peace Processes, Peace Agreements and Peace-Building* (Washington, D.C.: September 2007), [www.brookings.edu/research/reports/2007/09/peaceprocesses](http://www.brookings.edu/research/reports/2007/09/peaceprocesses); Gerard McHugh, ed., *Integrating Internal*

In practice, however, the issue of IDP participation is a difficult one to implement, even when there is political will to do so. Sometimes, it is difficult for communities to negotiate with authorities; there are questions of representation and sometimes difficulties of personal safety.<sup>26</sup> Let me give a few examples of governments which have included consultation with IDPs as part of their planning processes for durable solutions.<sup>27</sup> All of these initiatives have been criticized as inadequate by civil society and human rights actors, but I think they all represent efforts by governments to consult with people displaced by conflict about solutions.

The government of Turkey, for example, developed the “Van Provincial Action Plan for Responding to IDP Needs,” which includes detailed mechanisms for engaging with stakeholders, including IDPs, to consider their views and priorities. The Plan of Action also includes provisions for including IDPs and NGOs in planning and monitoring, and utilizing their skills to transform IDPs “from passive recipients of assistance and services into active citizens involved in decision making processes.” This is a positive example of a civic benefit to IDPs and the Turkish state. The Plan of Action includes provisions for strengthening the participation of women, and for sharing information about the Plan with displaced communities.<sup>28</sup>

Both Uganda and Angola have adopted national policies for IDPs which contain provisions regarding their participation in resettlement and other relevant processes. The Angolan Norms on Resettlement of the Internally Displaced Populations, for example, requires that the provincial government ensure the active participation of displaced populations in the resettlement or return process. The norms, however, do not elaborate on how such participation is to be facilitated and whether displaced populations will be able to participate in all, or only some, aspects of resettlement and return. The Ugandan policy is more detailed in its provisions inviting the participation of IDPs. The policy requires the Human Rights Promotion and Protection Sub Committee to work in collaboration with IDP representatives to find ways to promote respect for and protect the human rights of IDPs. The policy also states that representatives of displaced women shall be consulted and may be invited to participate in meetings of the District Disaster Management Committees.

In Georgia, a consultation process in the form of roundtables led by the IDP Women’s Network was also undertaken during the development of the country’s national policy. However, it is unclear to what degree these roundtables were able to influence the national policy.

## Concluding thoughts

Internal displacement ends when those who were displaced no longer have needs related to their displacement and can exercise their rights without discrimination because of their displacement. While governments – and probably the general public – tend to think of durable solutions mainly in terms of returns, IDPs have the right to choose their solutions and there is tremendous variation in IDP preferences. There are different challenges for IDPs returning to their communities of origin and those

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*Displacement in Peace Processes and Agreements*, United States Institute of Peace Peacemaker's Toolkit (Washington, DC: United States Institute of Peace and Brookings-Bern Project on Internal Displacement, February 2010), [www.brookings.edu/research/reports/2010/02/16-internal-displacement-mchugh](http://www.brookings.edu/research/reports/2010/02/16-internal-displacement-mchugh)

<sup>26</sup> Brookings-Bern Project on Internal Displacement, *Moving Beyond Rhetoric: Consultation and Participation with Populations Displaced by Conflict or Natural Disasters*, October 2008, [www.brookings.edu/reports/2008/10\\_internal\\_displacement.aspx](http://www.brookings.edu/reports/2008/10_internal_displacement.aspx)

<sup>27</sup> Elizabeth Ferris, Erin Mooney and Chareen Stark, *From Responsibility to Response: Assessing National Approaches to Internal Displacement*, November 2011, pp. 113-127.

<sup>28</sup> For the full text of the policy, see Brookings-LSE Project on Internal Displacement, “IDP Laws and Policies Index: Turkey,” [www.brookings.edu/about/projects/idp/laws-and-policies/turkey](http://www.brookings.edu/about/projects/idp/laws-and-policies/turkey)

choosing to integrate locally in the country. The responsibility of national authorities for promoting sustainable solutions is acknowledged in international law but its practice often demands actions and support by municipal authorities and development agencies, whether national or international. Transitional justice mechanisms have a role in resolving displacement, particularly in facilitating integration or re-integration of IDPs into their communities – but there are many challenges in working with them. Finally, IDPs have a right to participate in decisions about the durable solutions to their displacement.