

Testimony of Francis M. Deng
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to the public hearing on
“Internally Displaced Persons in the Caucasus Region and Southeastern Anatolia”
convened by the U.S. Commission on Security and Cooperation in Europe
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Distinguished Co-Chairmen,
Commission Members,
Ladies and Gentlemen,

It is an honor to have been invited to speak at this hearing. The Commission is to be commended for organizing the hearing and focusing attention on an often overlooked group of people in need -- the internally displaced. Currently, there are some 25 million persons uprooted within their own countries by conflict, civil strife, persecution and serious violations of human rights. Internal displacement is a global crisis, affecting some fifty countries in all regions of the world. Of the estimated 3 million internally displaced persons in the OSCE region, more than half are found in the Caucasus and Turkey.

Before focusing on specific countries, allow me to briefly describe the approach that has guided me in carrying out my mandate. To begin with, it must be recognized that internal displacement, by its very nature, is an internal problem falling within state sovereignty. In my dialogues with governments, I begin by assuring them of my respect for state sovereignty. At the same time, however, I argue that sovereignty must be viewed, not as a barricade to international involvement, but as entailing responsibilities for a government to protect the rights and welfare of all those under its territorial jurisdiction, if need be with supplementary assistance from the international community. Indeed the responsibility to protect and assist the internally displaced lies first and foremost with the national authorities, the role of the international community being only complementary.

As regards the rights of internally displaced persons, working with a team of international legal experts and broad international consultation, we developed, at the request of the UN Commission on Human Rights and the General Assembly, the Guiding Principles on Internal Displacement – the first international standards for internally displaced persons. The Principles are appended to the text of my presentation. The Guiding Principles set forth the rights and guarantees of internally displaced persons in all phases of displacement: prevention, protection during displacement and the search for durable solutions. Since their presentation in 1998, UN bodies have recognized the Guiding Principles as constituting an important standard and a tool for the protection of the internally displaced and have encouraged their wide dissemination and application. The Principles are being used by the OSCE and the Council of Europe, for instance, as well as by local groups, and are also being drawn upon by a number of governments as guidance for policy and legislation. The Principles have been translated into more than 30 languages, including Abkhaz, Armenian, Azerbaijani, Georgian, Russian and Turkish.

Country missions are another critically important area of activity for my mandate. They provide an opportunity to study first-hand the situation of the internally displaced, to assess the

effectiveness of national and international responses in addressing their protection, assistance and development needs and, most importantly, to engage in solutions-oriented dialogue with the authorities and other relevant actors. Of my 25 missions as Representative of the Secretary-General on Internally Displaced Persons, my very first were to Europe: to the former Yugoslavia and the Russian Federation in 1992. In more recent years, I have returned to the OSCE region to undertake missions to Armenia (2000), Azerbaijan (1998), Georgia (2000), Tajikistan (1996) and Turkey (2002). I have also participated in seminars on internal displacement held in the South Caucasus and in the Russian Federation, co-sponsored by the Brookings Project on Internal Displacement together with local partners and, in the South Caucasus, also with the OSCE. The findings and recommendations of these country missions as well as of the seminars are detailed in reports presented to the United Nations Commission on Human Rights, to which I report every year.

In the South Caucasus, the plight of internally displaced persons is a protracted one, stretching back to the outbreak of various conflicts in the region in the early 1990s. For more than a decade now, cease-fires have been in place, virtually uninterrupted, and yet durable solutions to the conflicts and the plight of the more than one million uprooted persons remain elusive to this day. A defining feature of internal displacement in this region is that, unlike in many other situations where internally displaced populations are perceived by the authorities as associated with “the enemy” and targeted on that basis, in the South Caucasus, ethnic and external factors foster a general attitude of sympathy and solidarity with the displaced. Even so, there exist serious concerns about respect for the rights of the internally displaced, especially as regards facilitating solutions to their plight.

Azerbaijan has the largest internally displaced population of the three countries, with nearly 600,000 internally displaced. More than ten years after they were uprooted and a cease-fire to the conflict, the vast majority live in deplorable conditions of destitution, deprivation and dependency. Shelter conditions are substandard: weather-worn tents, overcrowded and dilapidated dormitories, even abandoned railway cars and dugouts. Poor sanitary conditions make these locations breeding grounds for disease, including respiratory infections and malaria. Moreover, these sites typically are in remote locations, far from markets and income-generating opportunities. Few displaced have access to arable land and adequate water to allow agricultural self-sustainability. Recent surveys indicate that 63% percent of the displaced (far higher than the national average) live below the poverty line. The Government reports that one in three displaced children below the age of 5 suffers from malnutrition and that infant mortality among displaced children is three to four times higher than the national rate. When I visited the country in 1998, however, the Government was resistant to efforts to improve the living conditions of the displaced and increase their self-reliance, concerned that doing so would signal abandoning the goal of return and regaining control over Nagorno-Karabakh and surrounding areas from which the displaced originate and which constitute about 20% of the country. This order of priority was shared by the displaced themselves. The international donor community, for its part, after years of providing emergency humanitarian assistance was increasingly unwilling to keep the internally displaced in a state of dependency and instead was eager to begin the transition to development assistance.

During my 1998 mission, I emphasized to the Government the importance of supporting durable solutions for the internally displaced. To begin with, there was an urgent need to improve the living conditions of displaced persons, especially as regards shelter. In addition to

placing priority on addressing basic humanitarian needs, I stressed the importance of supporting greater self-reliance among the displaced, in particular by ensuring their access to cultivable land, skills training, income-generating activities and micro-credit. I also emphasized the importance of continuing to pursue the right of the displaced to voluntary return in safety and dignity and the need for reintegration and reconstruction assistance in those areas where return already was possible. At the same time, I promoted the pursuit of alternative solutions, that is, resettlement or local integration and self-reliance, for the many internally displaced persons for whom return was not yet a realistic option. Having discussed these themes with various Government officials at all levels, I was particularly encouraged when President Aliyev concurred that such an approach indeed was necessary.

Since that time, the Government of Azerbaijan, together with the international community, have taken a number of important steps in that direction. Of particular note is the Government program, using a new \$75 million IDP fund from state oil revenues, to improve shelter and socio-economic conditions for the displaced, including resettling some 3,000 internally displaced families into new sites. The new homes are reported to be an improvement in terms of shelter, although Refugees International also reports with concern that the lack of viable agricultural or economic opportunities near the new sites, without which resettlement represents only a partial solution. Another important initiative is the more than \$40 million program of the World Bank, UNHCR and UNDP, in partnership with the Government, to support return and reconstruction in the so-called “liberated areas” as well as a social investment fund. Also of note is the National Poverty Reduction Strategy for 2003-2005, which will target internally displaced persons as one vulnerable group. The strategy includes plans for: the rehabilitation of the “liberated areas” to which return is possible; housing for more than 5,000 internally displaced families to resettle in other parts of the country, at least temporarily; upgrading infrastructure in camps; addressing the employment problems of the displaced; and interventions to improve their access to education and health care. This program is a positive step, signaling a significant shift in attitude and willingness on the part of the Government to give internally displaced persons the opportunity to escape their situation of perpetual dependency and resume their lives as productive citizens. This, in turn, can benefit the economic development of the country as a whole. The World Bank, the IMF and the Asian Development Bank have committed funds for this strategy, which should receive sustained international support.

The international community also has a role to play in advocating with the Government the need for legislative reform in certain areas. For instance, as I recommended in my report to the UN Commission on Human Rights, there is a need for the Government to amend regulations that place more onerous taxation obligations upon non-governmental organizations, which make such a critical contribution to assisting the displaced and promoting their rights.

The situation in Georgia, where there are some 260,000 internally displaced persons from the conflicts concerning Abkhazia and South Ossetia, bears certain similarities to that in Azerbaijan. In particular, the Government’s pursuit of the goal of return, which in Georgia, as in Azerbaijan, is also shared by the overwhelming majority of the displaced, has for many years been so absolute as to deny displaced persons the ability to enjoy their full rights as citizens and lead productive lives in the interim. While supporting the right of the displaced to return in safety and dignity to their areas of origin, I stressed with the Government the importance of enabling internally displaced persons to live in dignity and lead productive lives in their current

place of residence. In particular, urgent attention needed to be given to improving the living conditions of internally displaced persons, especially those living in collective centers and even hospital wards, which are overcrowded, dilapidated and were never designed as long-term residences. Entitlements already provided for in Georgian law, such as the monthly stipend to internally displaced persons, also needed to become a reality -- many internally displaced persons informed me that they had not received this modest, but critical, support for several months. Equal access to public services such as education and medical care, to land, and support for income-generating opportunities also was needed to enable the displaced to become more self-reliant.

I very much welcomed the initiative of the “New Approach to IDP Assistance in Georgia” adopted by the Government in 2000, in partnership with UNDP, UNHCR, the World Bank and OCHA, as it was inline with the recommendations I had made on the similar situation in Azerbaijan. A key component of the New Approach is the Georgia Self-Reliance Fund, which is a pilot-project offering micro-credit and employment opportunities to internally displaced persons in their current place of residence. Implementation of the New Approach, however, has faced several delays for administrative, financial and political reasons, such that to date the number of internally displaced persons to have benefited remains relatively small. Nonetheless, it is an innovative initiative that should be encouraged and expanded. This is particularly true in light of the report just a few months ago of the UN Committee on Economic, Social and Cultural Rights which referred to “the deplorable situation” of internally displaced persons in Georgia, noting that the Government’s “efforts to provide basic services to this disadvantaged group...have succeeded only partially in alleviating the most basic needs of internally displaced persons, particularly with regard to employment, social security, adequate housing, access to water, electricity, basic services and to education.” Clearly, greater effort is needed to ensure implementation of the New Approach and for the Government and international community to have the funds necessary to do so.

Another concern in Georgia to which I drew attention in my 1998 mission report related to the problems that internally displaced persons faced in exercising their political rights. Specifically, internally displaced persons were unable to vote in parliamentary elections for local representatives from the district where they were residing without forfeiting the entitlements and assistance they received as internally displaced persons. In 2000, a group of displaced persons sought to challenge Georgia’s law on parliamentary elections on the grounds that it was discriminatory and therefore in violation of the Constitution as well as relevant international standards, in particular the International Covenant on Civil and Political Rights (ICCPR). The Constitutional Court, however, held that the Constitutional provision concerning the right of citizens to participate in elections shall not be applied in an “extraordinary” situation and that the election law can establish a different rule concerning participation by displaced persons. In effect, this meant that internally displaced persons could not vote for local candidates in the areas in which they currently reside, even though they have resided in these areas for a decade -- hardly a temporary or “extraordinary” situation.

The reasons for this restriction were not legal, but political. First, it was feared that if the displaced persons were to have a stake in the political processes in the areas where they resided, this would encourage their local integration and they would consequently lose the impetus to return to the territories of Abkhazia and South Ossetia (currently outside the Government’s control). However, there is no objective reason why displaced persons should not be able to vote

for the representative of the area in which they reside, and without in any way relinquishing their right to freedom of movement and right to return. Second, the concern has been raised that in a number of districts displaced persons outnumber the local population and could therefore unduly determine the outcome – an argument which runs counter to the principles of democracy. Those in favor of restricting voting rights also contended that internally displaced persons from Abkhazia already have political representation in parliament, through the deputies of the Abkhaz Government-in-Exile. These representatives, however, were last elected in 1990. In keeping with the right to political participation, internally displaced persons should be able to exercise and renew their rights to political participation on a regular basis. Moreover, according to the Georgian Constitution, international treaties ratified by Georgia take precedence over domestic law.

At the Commission on Human Rights in 2001, the representative of Georgia stated that the Government took very seriously the recommendation made in my mission report that internally displaced persons be given the right to participate fully in the civil and political decision-making processes that affect their lives. He reported that the Parliament of Georgia had set up a special commission for elaborating new amendments to the election law which would include a stipulation that internally displaced persons shall not be discriminated against as a result of their displacement in the enjoyment of the right to vote and to participate in governmental and public affairs. Last spring, the Government reiterated this view to the UN Human Rights Committee, which monitors implementation of the ICCPR, and with which my office had also raised this concern. I was pleased to learn that the electoral code in Georgia has indeed been amended to enable internally displaced persons to participate fully in parliamentary elections as well as to vote in municipal elections. Local groups nonetheless point to the need for monitoring mechanisms to ensure that these important amendments are consistently implemented and observed. The OSCE could, in its election monitoring activities, play a valuable role in this regard.

Another key issue is that of property restitution or compensation and the need for national legislation on this issue. Several years ago, the OSCE began encouraging and assisting the Government of Georgia to draft a law on restoration and protection of housing and property rights for refugees and internally displaced persons. Since restoration of property and housing rights is a key issue in the negotiations seeking an end to the conflicts, this initiative is critical not only for the displaced themselves but for the broader conflict-resolution efforts. At a legal roundtable convened in Tbilisi last year, Government officials emphasized that the issue of property restitution should be regulated by law and made reference to the draft law. It is now critically important to finalize and adopt such a law and to apply it to both the Abkhazia and South Ossetia displacement situations. It would be valuable if the U.S. Commission on Security and Cooperation in Europe could encourage the Government in this regard.

Finally on the South Caucasus, I would like to say a few words about Armenia, which also has a problem of internal displacement that is intrinsically linked to displacement problems in other parts of the South Caucasus, in particular Azerbaijan. Government figures put the number of internally displaced at some 192,000 persons, of which some 100,000 were displaced as a result of the devastating earthquake of 1998, 10,000 as a result of mudslides, 10,000 as a result of (unspecified) human-made disasters, and 72,000 displaced by the military hostilities in areas bordering Azerbaijan. Independent assessments suggest that the number of conflict-induced internally displaced is lower – around 50,000, which is still significant.

When I undertook a mission to the country in 2000, I found that while those internally displaced by the earthquake and disasters were a focus of considerable attention by both the Government and the international community, the needs of persons displaced by conflict had been largely overlooked. Even basic facts such as their location and needs were unknown. President Kocharian himself acknowledged that inadequate attention had been paid to their plight, noting that the conflict-induced displaced in Armenia had been “forgotten people”. I was therefore very pleased that one effect of my visit was the raising of awareness among the Government and the international agencies present in the country of the particular needs and vulnerabilities of this group of people.

My visits to internally displaced communities in the border regions confirmed that many of their most basic needs were not being met. Shelter conditions were clearly inadequate. For example, I visited people who had been living for twelve years in iron containers that had been intended strictly as emergency shelter. I spoke with an elderly woman who said she was compelled to live in a barn amongst livestock because her home had been severely damaged by shelling and required repair. Continued sporadic shelling impeded safe movement and farmland remained heavily mined. Access to health care was limited. Schools had been destroyed and there were children not going to school at all. It was reported that only one in five internally displaced persons in the border areas was employed.

As I told the UN Commission on Human Rights, there is a need for the Government of Armenia to make the plight of its conflict-induced internally displaced population a national priority and to develop a national policy for addressing their needs. One focus for such a policy would need to be supporting the reconstruction and rehabilitation of the border areas so that internally displaced persons who choose to return can do so in conditions of safety and dignity. At the time of my mission, the Department for Migration and Refugees had drafted a project with this aim. The Government indicated to me that it would welcome international support for this undertaking.

More generally, there is a need for a comprehensive assessment of the location, needs and intentions of the displaced, whether to return or resettle elsewhere in the country. Last year, the Norwegian Refugee Council began a “mapping exercise” to identify the location and needs of the conflict-induced displaced. It is working closely with the Government on this initiative which is due to be completed by early 2004. It will be important for the Government to make use of the results of this analysis in order to most effectively target assistance to meet the needs of the displaced.

In addition, at a legal roundtable in Yerevan in October 2001, in which Government officials participated, and which was co-organized by the Brookings Project together with the OSCE, it was recommended that the Government formulate and enact a law on internally displaced persons. Local legal experts pointed out that it would be important for such a law to contain a clear definition of who is an “internally displaced person” as there has been misunderstanding about this in Armenia. It would be helpful for the U.S. Commission on Security and Cooperation in Europe to inquire with the Government as to its plans to formulate such a law and also identify whether any assistance, such as technical legal assistance, is required of the international community.

In the North Caucasus region of the Russian Federation, the plight of persons displaced by the conflict in Chechnya -- currently estimated at over 300,000 -- has been of increasing

concern to the international community and to my mandate. Unfortunately, I have not yet been able to visit the region since the new wave of conflict began in 1999. Between 2000 and 2002, I made several requests to Russian authorities to undertake a mission to Chechnya and Ingushetia, where most of the internally displaced in the region are found. Concurrently, in 2000 and 2001, the UN Commission on Human Rights passed resolutions calling upon the Russian government to facilitate such a mission. In 2002, the Russian authorities approved the mission in principle, but it was then postponed indefinitely for “security reasons”. In April of this year, however, Russian authorities informed me that they are now prepared to receive my mission towards the end of this year. We are currently in discussions about dates and I am hopeful that the mission will now go forward.

Although I am not in a position to give this Commission first-hand information on the problem, I will share some of the concerns that have been brought to my attention and which I hope to be able to address in direct dialogue with the relevant authorities in Russia. One of the most pressing concerns that I hope to raise with the authorities pertains to the security and sustainability of returns of internally displaced persons to Chechnya. An equally important and related matter is the right of the internally displaced to choose whether or not they wish to return or resettle elsewhere. In July and December 2002, Russian authorities were reported to have closed tent camps in northern Chechnya and Ingushetia respectively. Senior United Nations officials, including the High Commissioner for Refugees, the High Commissioner for Human Rights, and the Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, expressed their grave concerns about these camp closures. Under-Secretary General Kenzo Oshima in particular emphasized that “[r]eturns can only be considered voluntary if no risk exists to returnees’ life, safety, liberty, or health” and that “IDPs considering return must be given options, including the possibility of staying in their current place of sojourn or resettling in other parts of the Russian Federation of their choice.” In my dialogue with Government officials during the mission, I hope to discuss with the authorities due respect for these principles. Finally, I would hope to look into the conditions of return and the adequacy of the existing infrastructure in Chechnya to accommodate the displaced, for instance in terms of housing as well as economic opportunities.

I would also like to draw attention to a number of issues that were raised last year at a seminar on internal displacement in the Russian Federation in which I participated and which was sponsored by the Brookings Institution Project on Internal Displacement, the Institute of State and Law of the Russian Academy of Sciences and the Partnership on Migration. Participants pointed to the need for a greater focus of Russian law on the internally displaced, noting that current legislation only addressed the broader category of “forced migrants” which includes citizens and non-citizens as well as persons inside and outside Russian territory. From the standpoint of effective protection, the internally displaced “got lost among the other categories of forced migrants,” and some were excluded from coverage, notably those displaced from their homes but remaining inside their own republic. Participants also noted that Russian institutions dealing with migration were undergoing a significant change, with greater emphasis and authority being delegated to local officials who sometimes lacked the necessary experience and expertise on displacement issues. On the policy level, seminar participants called upon the Russian authorities to ensure that plans for durable solutions include not only return, but also the possibility of resettlement, as well as effective mechanisms for property restitution or compensation.

Turning to south-eastern Turkey, internal displacement there arose from the armed clashes, generalized violence, and human rights abuses associated with what the Government and the OSCE characterized as the “terrorist” activities of the Kurdistan Worker’s Party or “PKK” and the Government’s own counter-insurgency operations from 1985 to 1999. Estimates of the number of persons still displaced from their homes vary widely between several hundred thousand and more than a million. Many of these were “evacuated” by government forces, ostensibly for their own protection, while others fled instability and fighting between the PKK and the “village guards”, a state-supported civil defense force of local Kurds formed to confront the PKK.

Most of the displaced have moved to urban areas, where they live in conditions of extreme poverty, suffering from inadequate heating, sanitation, health services, education and general infrastructure. Without compensation for their lost property, and unable to adapt their rural skills to the employment market in overcrowded cities where unemployment levels were already described as “disastrous”, their immediate prospects for improving their own situation appeared to be very limited.

Although, in the past, the Government of Turkey has treated the displacement issue as an internal matter, in 2001, the Government responded positively to my request to undertake an official visit to the country. My mission took place in May 2002. During my visit, I found officials willing to engage in an open dialogue and determined to “heal the wounds” of the long conflict by encouraging the return or resettlement of the displaced. Nevertheless, as the new policy was still in the making, there were naturally gaps between policy statements and the actual response of the Government to the needs of the displaced.

The Government’s “Return to Village and Rehabilitation Project”, begun in 1999, has reportedly assisted approximately 80,000 displaced persons to return to date. However, there have been a number of concerns raised about the project. One concerns the degree to which the displaced are included in the planning of new settlements. The other relates to the tension between the need to centralize settlement patterns for the delivery of services and the traditional pattern of hamlet structures. Yet another concern relates to the slow progress of implementation. Moreover, it is alleged that participants in the project have been required to indicate the reason for their displacement on a form which does not include, as an option, displacement by the government itself. This has, however, been denied as a Government policy even though unauthorized local authorities might be engaged in such a practice.

More worrying were indications of interference by members of the village guards and other security forces, called *jandarma*, in the return process. Village guards are alleged to have been involved in the expropriation of the property of the displaced and in blocking their return in order to safeguard the stolen assets. I therefore recommended that they be disbanded or at least disarmed. The Government argues that it has a responsibility to find alternative employment for the village guards before disbanding them. It was also worth noting that former village guards were reportedly being granted preferential treatment in the return programs.

Given the time that will be needed to carry out an effective return program, I have urged the Government to devote greater attention and resources to the current needs of internally displaced persons. Although many of their social and economic problems also plague their host communities, the displaced have particular concerns in the areas of housing, health care and psychosocial care for women and children that should be addressed.

Perhaps the most glaring gap I found in Turkey was the lack of coordination between the Government and the international humanitarian and development organizations based in the country with regard to both current and long-term needs of the internally displaced. Mutual mistrust on this issue was high. Fearing that the Government was not concerned with the issue of internal displacement, international representatives chose not to involve themselves in the assistance and protection of the internally displaced to an appreciable extent. Indeed, even as I was negotiating a change of policy, they remained cautious. My discussions with Turkish authorities were productive and have increased my confidence that they will move forward with my recommendation to begin holding meetings with UN and NGO representatives with an eye to bridging the gap between the declared new policy and performance on the ground.

By the same token, I have encouraged the international community to take advantage of the opportunity that now exists to bring effective and coordinated assistance to the internally displaced of Turkey. I have recommended to the Secretary-General and humanitarian and development officials that UN agencies operating in the country develop a unified strategy on how they might support the Government in addressing the situation of internal displacement. Likewise, I have recommended to senior officials at the World Bank that they consider targeting their intervention in the country to more effectively address the issues of the internally displaced. The OSCE could play an important role in encouraging effective national and international responses in this direction. Doing so would significantly benefit the internally displaced in Turkey and, in turn, contribute to the stability and unity of the country as a whole.

In conclusion, I would like to reiterate my appreciation for the attention which the U.S. Commission for Security and Cooperation in Europe is giving to the problem of internal displacement in the OSCE region. As responsibility for internally displaced persons lies first and foremost with their Governments, it is incumbent upon the Government in each of the affected countries in the region to devote attention, resources and political will to address the protection, assistance and development needs of their internally displaced populations. The OSCE, for its part, should be encouraged to do all it can to ensure that this is done. My colleague, Roberta Cohen, Co-Director of the Brookings-SAIS Project on Internal Displacement, will discuss specific steps that the OSCE could take in this regard. I would just note in closing today, as indeed I do in all of my mission reports, that durable solutions to the crisis of internal displacement will require addressing not only the protection, assistance and development needs of the displaced, but also the root causes of conflicts, in particular the social, political and economic cleavages from which they stem. In this and all aspects, effective responses to the global crisis of internal displacement require a multi-dimensional approach that engages actors at all levels, from local through regional to global.

Thank you.