



GEORGETOWN UNIVERSITY

WHEN DISPLACEMENT ENDS:  
A FRAMEWORK FOR DURABLE SOLUTIONS

MAY 2007

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## FOREWORD

Protection for internally displaced persons (IDPs) ultimately entails ensuring a durable solution to their plight. In my country missions and dialogues with governments and other actors I have always given strong focus to the search for durable solutions for people forcibly uprooted from their homes. In some cases, the possibility of return opens up with the signing of a peace agreement. In other cases, new and creative approaches need to be found when political solutions remain out of sight decades after people first were forced from their homes. Even in new situations of internal displacement, it is important to begin to consider durable solutions for the displaced. Creating and supporting the conditions to enable durable solutions is an essential element of national responsibility for addressing internal displacement.

Yet determining when exactly IDPs attain a durable solution and no longer need to be the focus of specific attention has not always been so clear. In the absence of agreed upon criteria as to when an IDP should cease to be considered as such, approaches have varied, or have been *ad hoc*, even arbitrary, reflecting dramatically different conclusions among the different national and international actors. However, the way the question is answered and addressed can have serious ramifications for IDPs. It can lead to the termination of assistance and of a shift of attention away from the particular risks and vulnerabilities associated with internal displacement. Alternatively, especially in protracted situations, insistence that people remain “IDPs” can undermine their ability to integrate into society and resume their lives.

Appreciating “the need for a coherent response”, in 2001 the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) turned to my predecessor, the Representative of the Secretary-General on Internally Displaced Persons, Francis M. Deng, to provide guidance. Specifically he was asked “when generically an individual would not only become an IDP but...should no longer be considered under this category.” United Nations and other international humanitarian agencies, as well as governments, donors, regional organizations and civil society around the world also were interested in receiving advice on “when displacement ends.” Specifically, they wanted to know when protection and assistance activities for IDPs would no longer be considered necessary as the IDPs could be said to enjoy access to protection and assistance on a par with the rest of the population.

To answer the question of when displacement ends, an extensive inquiry was undertaken at the request of the Representative by the Brookings Institution Project on Internal Displacement and the Institute for the Study of International Migration at Georgetown University. Spearheaded by Erin Mooney and Susan Martin, a series of broad-based consultations -- with governments, donors, international agencies and NGOs, civil society and IDP organizations -- were held in order to gain the perspectives of a wide variety of actors. Indeed, the hallmark of the process was its broad collective nature. The Internal Displacement Monitoring Centre of the Norwegian Refugee Council was a close collaborator. The active engagement and generous support of the Canadian International Development Agency and the Federal Department of Foreign Affairs of the Government of Switzerland was critical to the process and is deeply appreciated.

Initially the consultations explored the issue through three lenses. The first was the normative framework, namely the *Guiding Principles on Internal Displacement* (see The Legal

Dimension). Second, the refugee experience by analogy was explored, though the relevance of this approach had been found to be somewhat limited given the different legal situation of persons displaced in their own country (see Discussion Paper and Summary Reports). The third lens was to look at a number of specific case studies of internal displacement. Different types and phases of displacement were considered, in particular emergencies, post-conflict situations and cases of protracted displacement (see Summary Reports). While the focus of the research and discussions was primarily on displacement due to conflict and serious violations of human rights, it was recognized that displacement caused by natural disasters and development-induced displacement would need to be considered, though perhaps because of the particular issues involved might require different sets of criteria.

Three possible approaches to the question -- cause-oriented, needs-focused and solutions-based - - were developed and tested in the consultations: a) cause-based (whether the cause that compelled flight had changed); b) needs-focused (whether IDPs still had needs emanating from their displacement); and c) solutions-based (whether the displaced had returned, integrated locally, or settled in another part of the country) – see Criteria. The consensus to emerge was that while each approach shed light on important aspects of the issue, no one approach adequately covered its complexity. The resulting preference was for particular weight to be given to a blend of needs-focused and solutions-based approaches (see Summary Reports; see also the *Forced Migration Review's* special issue on “When does internal displacement end?”, May 2003).

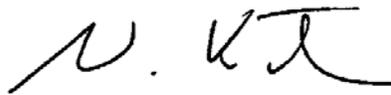
The culmination of the process was the development of a Framework for Durable Solutions, which shows that the ending of displacement occurs not at one point in time but is a gradual process during which the need for specialized assistance and protection for IDPs begins to diminish. Drafted by Susan Martin, the Framework sets forth a series of steps for determining solutions to situations of internal displacement. Specifically it addresses the problems IDPs may face in different situations and proposes solutions to accord with respect for their human rights. Guidance as to how to apply the Framework is provided by the two flowcharts that are attached (prepared by Erin Mooney and UNHCR).

The Framework was finalized at a series of meetings with international organizations, NGOs and experts. My adviser in New York, Claudine Haenni, reviewed the Framework with member organizations of the UN's Protection Cluster Working Group. In December 2006, I presented it to the UN Emergency Relief Coordinator, and in March 2007 the Inter-Agency Standing Committee (IASC) Working Group welcomed the Framework. The IASC Working Group recommended its incorporation into the humanitarian work of international organizations “as a pilot” that should be revisited in one or two years, after field-testing. The Working Group also encouraged UN Humanitarian Coordinators to use the Framework “to determine when IDPs no longer have needs that differ from the population around them.”

The Framework is intended to assist governments in devising national legislation, policies and programs that promote solutions to internal displacement. It also is expected to provide guidance to international organizations to assist their work in different country contexts, in particular to promote a coherent transition from humanitarian aid to reconstruction and development as well as to provide a framework for assisting governments in devising national legislation, policies and programs that promote solutions to internal displacement. The Framework also should enable civil society organizations to monitor the extent to which governments fulfill their responsibility

to find durable solutions for IDPs and as a basis for their own work promoting the creation of conditions enabling these solutions.

Because the Framework is to be refined over the next year, I would very much welcome comments and reactions from readers. This publication is intended to present the Framework to a wide audience. It aims to provide readers with an understanding of the process and the discussions that led to the development of the Framework. It therefore includes the key background papers and summary reports of the meetings, edited by Roberta Cohen, co-founder and former Co-Director of the Brookings Project on Internal Displacement. It is my hope that the publication will stimulate international discussion and that all actors dealing with situations of internal displacement will carefully review the Framework and find in it practical guidance for promoting, supporting and ensuring durable solutions for the millions of internally displaced the world over.

A handwritten signature in black ink, appearing to read 'W. Kälin', with a stylized flourish at the end.

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

# FRAMEWORK FOR DURABLE SOLUTIONS FOR INTERNALLY DISPLACED PERSONS<sup>1 2</sup>

Internal displacement “shall last no longer than required by the circumstances,” the Guiding Principles on Internal Displacement stipulate. It is now well recognized that to be internally displaced is to be exposed to a range of particular risks and vulnerabilities, even if it does not create a legal status. Bringing an end to this precarious plight is critically important. However, if decided prematurely, it can have serious ramifications. There consequently has to be an understanding of how to define and realize this end in a manner that respects the safety and security of the displaced.

Providing solutions to IDPs and ensuring their protection and assistance primarily lie with national authorities and, where applicable, with non state actors who control a given territory. This Framework should enable humanitarian organisations to assist the relevant authorities and non state actors to take on this responsibility. Its purpose is also to assist them and the displaced themselves to determine whether durable solutions to internal displacements have been found and, if not, to identify what is still required towards reaching that goal. The Framework addresses those displaced by conflict, human rights abuses and natural or human-made disasters. It may also provide guidance to those displaced by development projects although in such situations return most often is not possible and, in addition, special guidelines on resettlement exist.<sup>3</sup> The Framework does not aim to address the question of disengagement of humanitarian organisations specifically, which is an operational and mandate driven decision, although the achievement of durable solutions can be a criterion for it.

Currently, there is no consensus as to when to stop considering someone as an internally displaced person (IDP). Because identification as an IDP does not confer a special status under international law there is no cessation clause as for refugees. For some, internal displacement ends only upon the reversal of displacement, that is, upon IDPs’ return to their place of origin. In many cases, such return can occur only when the causes of the displacement have been resolved. However because return is not always possible or even desired by IDPs, this can lead to a situation where internal displacement holds little prospect of ever ending, and instead is an “identity” passed down from one generation to the next, which can impede their integration and even undermine their rights. At the other extreme, internal displacement may abruptly be deemed

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<sup>1</sup> This document has two flowcharts annexed to it, both entitled “Annex- Benchmarks for Durable Solutions for IDPs – Flowcharts”.

<sup>2</sup> At the request of the UN Office for the Coordination of Humanitarian Affairs (OCHA), the Representative of the UN Secretary-General on Internally Displaced Persons (RSG) Francis Deng began the process of developing a framework to provide guidance on determining when an individual should no longer be considered to be in need of protection and assistance as an internally displaced person. To develop the framework, the RSG, in cooperation with the Brookings-Bern Project on Internal Displacement and Georgetown University’s Institute for the Study of International Migration, later joined by the Internal Displacement Monitoring Centre of the Norwegian Refugee Council, hosted three meetings to gain the input of international organizations, governments, nongovernmental organizations and experts on internal displacement. The organizers also commissioned case studies that were published in a special issue of *Forced Migration Review*. The project is being completed under the guidance of the current RSG, Walter Kälin. For meeting reports, see [www.brookings.edu/fp/projects/conferences/contents.htm](http://www.brookings.edu/fp/projects/conferences/contents.htm)). For the *Forced Migration Review* special issue, see [www.fmreview.org/FMRpdfs/FMR17/fmr17full.pdf](http://www.fmreview.org/FMRpdfs/FMR17/fmr17full.pdf).

<sup>3</sup> See World Bank, Operational Policy on Involuntary Resettlement OP 4.12 Involuntary Resettlement, December 2001 for more information about the processes to be followed in cases of development-induced displacement.

to have ended. It may, for instance, be in the interest of a government to claim there are no longer any IDPs in the country, in an effort to give the appearance of a return to normalcy and to direct international scrutiny elsewhere. Or, resources may dictate who is considered an IDP, with displacement “ending” when funding ends. To end specific actions for IDPs prematurely may lead to some IDPs’ particular protection needs being neglected, without having found a durable solution.

As prevention, which should be the first priority, is not always successful, there is a need to find durable solutions for the displaced, once their forced displacement has occurred. Three types of durable solutions to internal displacement exist: return to the place of origin, local integration in the areas in which IDPs initially take refuge or settlement in another part of the country, the latter two being termed “resettlement” by the Guiding Principles on Internal Displacement.<sup>4</sup> In order to be considered durable, they must be based on three elements, long-term safety and security, restitution of or compensation for lost property and an environment that sustains the life of the former IDPs under normal economic and social conditions.

Displacement ends when one of these durable solutions occurs and IDPs no longer have needs specifically related to their displacement. This does not mean that they may not continue to have a need for protection and assistance, but their needs would be no different from other similarly situated citizens. Having found a durable solution, formerly displaced persons continue to be protected by human rights law and, if applicable, by international humanitarian law (IHL). Consequently, they continue to have all of the rights of citizens, and the international community should support these rights on the same basis as others in the country. The fact that a person is no longer being considered an IDP shall have no repercussions for the enjoyment of her or his citizen’s and human rights, and, when applicable, the protection offered by IHL, including the right to seek redress/compensation, or the right not to be discriminated against because of having been displaced. The end of displacement is achieved when the persons concerned no longer have specific protection and assistance needs related to their having been displaced, and thus can enjoy their human rights in a non-discriminatory manner vis-à-vis citizens who were never displaced. In order to assess whether this situation has been achieved, an analysis of the individual’s access to rights needs to take place for each situation.

Internal displacement does not generally end abruptly. Rather, ending displacement is a process through which the need for specialized assistance and protection diminishes. Sometimes, for long periods after return, those who have been displaced may find themselves in markedly different circumstances and with different needs than those who never left their home communities. For example, claims to their property may not be adjudicated immediately, leaving them without shelter or a means of livelihood in places of return. Similarly, those who are settled elsewhere may require humanitarian and financial aid until they are able to obtain shelter and employment in their new location. Even in the context of a durable peace agreement, insecurity may continue to pose problems for uprooted populations, particularly if there are resentments and conflicts between returning, locally integrated or settled IDP populations and the already resident

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<sup>4</sup> Guiding Principles 28-30 spell out the rights of IDPs and responsibilities of competent authorities relating to return, resettlement and reintegration. Since former IDPs should not be disadvantaged relative to those who are still displaced, the Guiding Principles relating to protection from displacement, protection during displacement, and humanitarian assistance apply, where appropriate, after return or resettlement.

population. Under these circumstances, even if the people have returned, they still have residual displacement related problems and are therefore of concern.

The right of IDPs to make informed and voluntary decisions as to whether they want to return, or settle and integrate at the place where they found refuge or elsewhere, is one of the cornerstones of the Guiding Principles, and must be ensured. Though freedom of movement is a fundamental human right, it can be restricted and the right to determine where one lives is not absolute. There may be situations in which national authorities may determine that conditions are too unsafe to permit return or settlement in a specific location (for example, imperative military reasons or a natural or human-made disaster has made an area uninhabitable). However, every effort should be made to ensure that the decision to choose a durable solution is voluntary and that the decisions of individual IDPs whether to return home or settle elsewhere must be respected and facilitated.

Deciding that displacement has ended contains both subjective and objective aspects. IDPs may continue to see themselves as displaced long after national authorities and international observers may determine that their situation has been resolved using a set of objective criteria. Conversely, IDPs may see their displacement at an end upon returning home, even though a more objective analysis would indicate that they remain vulnerable as persons who have been previously uprooted and who would continue to need protection and assistance as returnees, locally integrated or persons who have settled elsewhere in their country.

To determine whether and to what extent a durable solution has been achieved it is necessary to examine both the *processes* through which solutions are found and the actual *conditions* of the returnees and those persons who have integrated locally or settled elsewhere in the country. In general, it is important to consider whether 1) the national authorities have established the conditions conducive to safe and dignified return or settlement elsewhere; 2) formerly displaced persons are able to assert their rights on the same basis as other nationals; 3) international observers are able to provide assistance and monitor the situation of the formerly displaced; and ultimately, 4) the durable solution is sustainable. It is important to note that there is no clear or magic formula for deciding that displacement or the need for assistance or protection has ended. Rather, the totality of the situation must be assessed and consultation with all relevant stakeholders be a part of the process.

The Framework is presented in two sections. First are the processes through which durable solutions to displacement are determined to have been achieved, and second are the conditions that mark such durable solutions to displacement.

## **Process**

**IDPs are able to make an informed decision as to whether to return to their home communities, remain where they are, or settle elsewhere in the country<sup>5</sup>.**

The information needed to make an informed decision has to be in a language understood by the IDPs and, at a minimum, includes:

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<sup>5</sup> Principle 28.2 requires 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.”

- General situation in the community of origin or settlement, including the political situation, safety and security, freedom of movement, amnesties or legal guarantees, human rights situation, legal and other mechanisms to protect the rights of women, children, youth, minorities, older people, type and duration of assistance available to them, etc. This includes objective information as to whether the causes of displacement have been resolved, and if they have not been resolved, a realistic assessment as to the prospects for resolution and the efficacy of risk reduction mechanisms in place. Information should also be provided on what mechanisms have been put in place in order to ensure a smooth (re-)integration of the IDPs with the local population.
- The procedures for returning, integrating locally or settling elsewhere, including information on what items the IDPs can take with them, what documents they will need, what type of transport will be available, what arrangements if any have been made for those with special needs, what if any reintegration package will be provided, any necessary administrative requirements to stay where they are, etc.
- The conditions on return, local integration or settlement in another part of the country, including access to housing, land, livelihoods, information on mine risks, employment and other economic opportunities; availability of public services (public transport, healthcare, education, etc.); conditions of buildings and infrastructure for schools, health clinics, roads, bridges and sanitation systems; and assistance available from national, international and private agencies.

**IDPs, including women, minorities and others who may not have representation, participate fully in the planning and management of return, local integration or settlement elsewhere in the country.** <sup>6</sup> To ensure full and appropriate participation of the internally displaced in decision-making, planning and management, such participation in decisions may take place in the context of community meetings, social and other service delivery, feeding centers, skills training and income generating programs, and other environments in which the displaced gather. Involvement of staff of NGOs in outreach may help ensure broader participation. In urban areas where internally displaced persons have spontaneously relocated, special efforts will be needed to ensure that they receive notice of consultations and gain access to information. Those who have spontaneously returned, locally integrated or settled elsewhere should also be consulted about continuing assistance or protection needs. The use of mass media may be the most effective way to reach spontaneously settled individuals.

**To the extent possible, arrangements have been made for IDP representatives to visit and assess conditions for return or settlement elsewhere.** These visits should include women and men as well as a broad representation of ethnic, racial, religious and political groups. The visits should include opportunities for consultations with populations already residing in the potential return or settlement communities in order to identify issues that may lead to conflict.

**No coercion—including physical force, harassment, intimidation, denial of basic services, or closure of IDP camps or facilities without an acceptable alternative—has been used to induce or to prevent return, local integration or settlement elsewhere.** As stated above, there

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<sup>6</sup> In line with international human rights law, durable solutions for displaced children must be in the best interest of the child.

may be situations in which national authorities are justified in determining that return is impossible, at least for the time being or in the near future. For the most part, however, the use of coercive measures to prevent or induce return, settlement, or local integration undermines the principle of voluntariness, which is essential to ensure the protection of the rights of IDPs.<sup>7</sup> As stated in the *Handbook for Applying the Guiding Principles*, “Internally displaced persons have the rights to be protected against forcible return to or resettlement in any place where their life, safety, liberty, and/or health would be at risk. Just as the principle of non-refoulement (the prohibition against forced return to their home countries) is the most important right for refugees, protection from forced returns is also essential for protecting internally displaced persons. This principle has particular importance for internally displaced persons because it is the loss of their ability to remain in their original homes that characterizes their plight. Further depriving them of their right to seek safety adds even greater injury to them.”

**National authorities, where appropriate with the support of the international community, have taken appropriate measures to establish conditions, as well as provide the means, to enable IDPs to return voluntarily, in safety and dignity, or to resettle voluntarily in another part of the country and to facilitate the (re)integration of returned or resettled IDPs.**<sup>8</sup> The primary responsibility for ensuring that IDPs do not face dangers to their physical safety and security rests with national authorities. Countries in transition from conflict or natural disasters may need assistance from the international community (see below) in establishing such conditions.

In practical terms, the responsibility of national authorities includes: taking measures to ensure respect for human rights and humanitarian law; providing safe transit for internally displaced persons; and offering adequate assistance and protection of physical safety upon relocation. In conflict situations, practical measures include seeking peaceful resolution of conflicts; where appropriate, national authorities may need to pay special attention to landmines and unexploded ordinance that may pose a danger to IDPs and/or disarm militias or civilians carrying arms. In the case of natural disasters, national authorities will need to take measures to reduce vulnerability of returnees and the general population from future disasters.

**National authorities grant and facilitate safe, unimpeded and timely access of humanitarian organizations and other relevant actors to assist IDPs to return, locally integrate or settle elsewhere in the country.**<sup>9</sup> International and national humanitarian organizations and other relevant actors can play an important role in assisting return, local integration or settlement elsewhere in the country. In some cases, memoranda of understanding signed by national and local authorities, humanitarian organisations and representatives of the internally displaced may be a useful way to spell out the understandings and obligations of all parties involved in finding solutions to the displacement. Humanitarian organizations and other appropriate actors can also

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<sup>7</sup> Guiding Principle 28 emphasizes that IDPs should be able “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.”

<sup>8</sup> Guiding Principle 28.1 states that “Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons 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.”

<sup>9</sup> Guiding Principle 30 specifies that, “All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.”

play an important role in assessing the safety and security of internally displaced persons who have returned, integrated locally or settled elsewhere in the country. Assessments should take into account gender-specific violence and exploitation connected to displacement as well as threats specific to children and to other groups with particular protection concerns.

## Conditions

**Formerly displaced persons do not suffer attacks, harassment, intimidation, persecution or any other form of punitive action upon return to their home communities or resettlement in other locations.** Attacks or other acts of violence against internally displaced persons are prohibited in all circumstances. Evidence that former IDPs are not subject to such attacks or other punitive actions is an essential condition that a durable solution has been achieved. In the case of conflict situations, it is particularly important to determine that former IDPs are not physically endangered by landmines, unexploded ordinances, small arms or other violence perpetrated by combatants.

**Formerly displaced persons are not subject to discrimination for reasons related to their displacement.**<sup>10</sup> This provision has two components. First, displacement ends when returnees and settled or locally integrated persons do not face discrimination because they had been displaced in the past. Second, for the solution to be sustainable, displacement can be said to have ended only if the reasons that induced past and may induce future displacement have ended. These include discrimination based on race, religion, nationality, ethnicity, membership in a particular social group, political opinion or gender.

**Formerly displaced persons have full and non-discriminatory access to national and sub-national protection mechanisms, including police and courts.** Although law enforcement and judicial systems in rural areas, or in countries in transition from conflict or severely affected by disasters, may not be sufficiently developed, it is important that IDPs have access on a par with other residents to national protection mechanisms and progress be made towards establishing effective courts and police in areas of return, settlement, or local integration. In cases where durable solutions are being sought for IDPs due to conflict, formerly displaced persons have full and non-discriminatory access to local reconciliation mechanisms, as well as reparation for having been the victims of gross violations of their human rights, in particular of having being forcibly displaced.<sup>11</sup>

**Formerly displaced persons have access to personal documentation, which typically is needed to access public services, to vote and for administrative purposes.** To give effect to the right for internally displaced persons to recognition before the law, it is important that the formerly displaced have access to documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. Women and men have equal rights to obtain such necessary documents and have the

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<sup>10</sup> Guiding Principle 29.1 states that internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

<sup>11</sup> See Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, GA Resolution 60/147 of 16 December 2005

right to have such documentation issued in their own names. Such documentation in fact should be issued earlier, as soon as an IDP needs them.<sup>12</sup>

**Formerly displaced persons have access to mechanisms for property restitution or compensation regardless of whether they return or settle in the area where they found refuge or a new location.**<sup>13</sup> These standards apply to all residential, agricultural and commercial property. The right to restitution or compensation extends to all displaced persons--including men, women and children--who have lost ownership of or access to their property, whether they have formal or informal titles. It also includes those who stand to inherit property from deceased family members who were displaced. The process through which property restitution and compensation is made can be complex and may take time. It is not necessary for it to be fully achieved before IDPs are determined to have found a durable solution if they have access to procedures for property restitution and compensation, including traditional property dispute mechanisms, and are able to reside safely and securely during the interim. It should be emphasized that those determined to have found durable solutions do not lose their claim to restitution or compensation because their displacement has ended – property rights, like all human rights, remain in effect an entitlement of former IDPs. Alternative solutions should be found for temporary occupants of IDP property who are being evicted in the course of property restitution, in particular if they are displaced persons themselves. Appropriate solutions should be found for persons who lost their tenancy rights in the course of displacement. The problems that women may face in obtaining recognition of their ownership or access to the property need special attention, particularly where there are legal barriers to female inheritance of property.

**Formerly displaced persons enjoy without discrimination an adequate standard of living, including shelter, health care, food, water and other means of survival.**<sup>14</sup> National authorities have the principal responsibility to ensure that those who return, integrate locally or settle elsewhere in the country have access, on a sustainable basis, to essential food and potable water, basic shelter and housing, and essential medical services and sanitation. Humanitarian organizations may be called upon to help ensure that these basic needs are met. Initially, IDPs may have needs for assistance to obtain the means of survival that differ significantly from that of the resident population. However, if adequate attention is being paid to their specific situation, the needs of IDPs are likely to resemble that of other residents over time. To the extent that the needs merge, the continuation of IDP-specific programs could become discriminatory towards the other residents. It should be emphasized, however, that since the formerly displaced retain their rights, along with other citizens, to an adequate standard of living, development programs to help them achieve such a standard will be warranted.

More specifically, formerly displaced persons will have access without discrimination to:

- **Employment opportunities and income generation.** Return, settlement and local integration often occur in circumstances of high unemployment and fragile economies. This benchmark does not mean that all formerly displaced persons must be employed

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<sup>12</sup> Guiding Principle 20 spells out the rights of IDPs to documentation.

<sup>13</sup> Guiding Principle 29.2 spells out the responsibilities of competent authorities regarding property restitution and compensation.

<sup>14</sup> Guiding Principle 28 states “[Competent] authorities shall endeavor to facilitate the reintegration of returned or resettled internally displaced persons.” Guiding Principle 29.1 specifies that returnees and resettled persons “shall have the right to ... have equal access to public services.”

before considering displacement to have ended. Nor does it require that IDPs regain their previous livelihood. Rather, displacement ends when IDPs have no barriers to employment and income generation opportunities that relate specifically to their displacement.

- **Basic public services, including education, health services and pensions.** Similarly, the key to determining whether IDPs have such access is whether there are barriers related to their displacement that bar them from using services that are available to other residents of the community. Replacement of personal documentation, as noted earlier, is often essential in order for IDPs to regain access to public services.

**Formerly displaced persons have been able to reunite with family members if they choose to do so.** Families separated by displacement should be reunited as quickly as possible, particularly when children are involved.

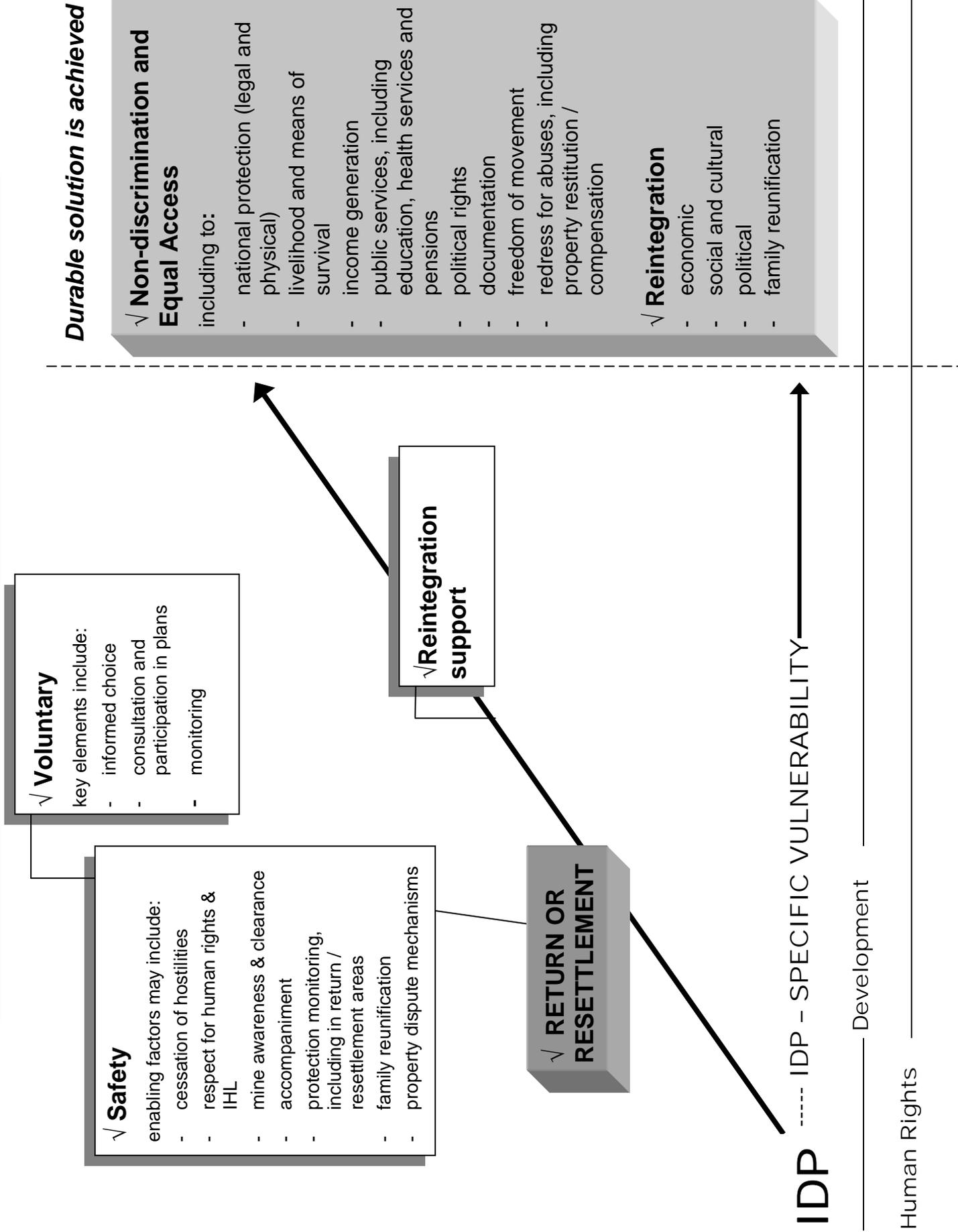
**Formerly displaced persons are able to exercise the right to participate fully and equally in public affairs.**<sup>15</sup> This includes the right to associate freely and participate equally in community affairs, to vote and to stand for election, as well as the right to participate in public affairs, and have access to public institutions, in a language they understand.

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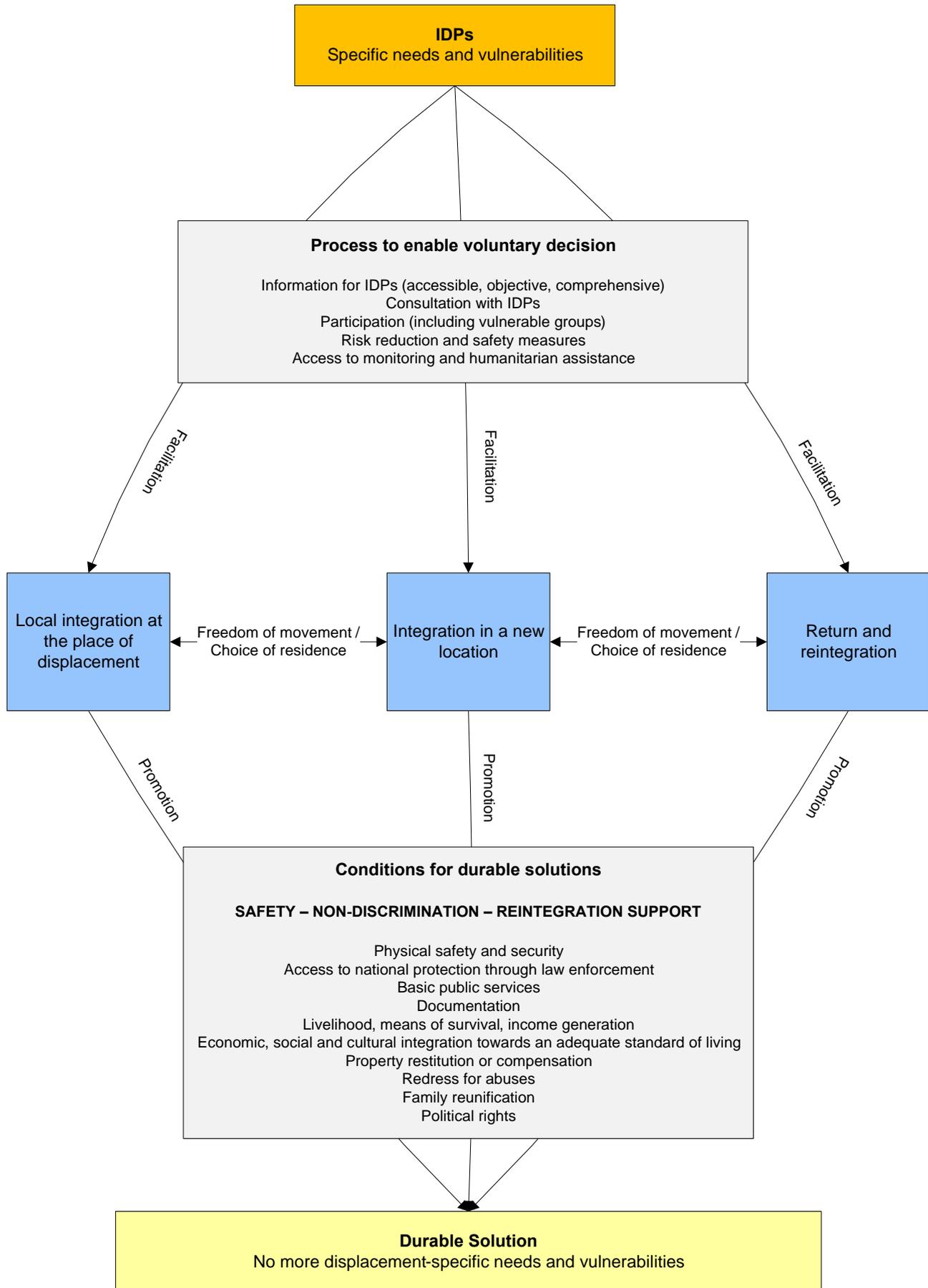
<sup>15</sup> Guiding Principle 29.1 specifies that internally displaced persons “shall have the right to participate fully and equally in public affairs at all levels” upon their return or resettlement. IDPs also have this right while displaced (see Guiding Principle 22 (d)).

## **GUIDANCE FOR APPLYING THE FRAMEWORK: TWO FLOWCHARTS**

# ANNEX – FRAMEWORK FOR DURABLE SOLUTIONS FOR IDPs – FLOWCHART



**ANNEX -- FRAMEWORK FOR DURABLE SOLUTIONS FOR IDPS - FLOWCHART**



States may have continuing human rights, humanitarian and development responsibilities

## DOCUMENTS LEADING TO THE PREPARATION OF THE FRAMEWORK

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- **Discussion Paper: An IDP No More? Exploring the Issue of When Internal Displacement Ends**  
by Erin Mooney
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### Introduction: A Question in Search of Answers

Over the past decade, the term “internally displaced person” (IDP) has entered the international lexicon and gained wide currency to denote persons forcibly displaced within their countries. It is generally understood that a person becomes internally displaced when s/he is forced or obliged to flee or to leave his or her home or place 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 human-made disasters, but remains within her or his country of origin.<sup>1</sup> It also has come to be widely recognized that the factual situation of being internally displaced tends to create particular needs and vulnerabilities requiring special attention. The Guiding Principles on Internal Displacement seek to address these needs by spelling out the various norms relevant to providing protection and assistance in all phases of internal displacement. Yet, while there exists considerable awareness of when internal displacement begins and what special needs it entails for the affected persons, the issue of when internal displacement ends or, in other words, when an IDP ceases to be considered as such, has been unclear.

The question of when internal displacement ends is critical to answer for a number of reasons. To begin with, determining when displacement ends is an important factor in compiling reliable and agreed statistics. Organizations and researchers involved in compiling IDP statistics point out that one of the reasons it has been difficult to reach agreement on IDP figures has been the lack of clarity and consensus on the issue of when an IDP ceases to be an IDP.<sup>2</sup> Operational agencies and NGOs, donors and of course governments of countries affected by internal displacement require data on the number of IDPs in order to formulate budgets, frame policies and plan programming to address the needs of the IDPs. Clarity on the issue also is critical to determining when IDPs cease to come under the mandate and be the concern and responsibility of particular institutional mechanisms, in particular operational agencies as well as the Representative of the UN Secretary-General on Internally Displaced Persons (RSG on IDPs) and the Internal Displacement Unit recently established in the Office for the Coordination of Humanitarian Affairs (OCHA). Finally, it must not be overlooked that internally displaced

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<sup>1</sup> Based on the definition provided in the introduction to the *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2, Introduction: Scope and Purposes, para. 2.

<sup>2</sup> See, for example, a recent discussion among researchers reflected in *Response Strategies of the Internally Displaced: Changing the Humanitarian Lens. Seminar Proceedings*. Report of a seminar held in Oslo, Norway, 9 November 2001 (Oslo: Norwegian Refugee Council in cooperation with the Norwegian University of Technology and Science), pp. 22-24. At the same time, it must be noted that the difficulty of determining reliable figures for displaced populations, is not limited to internally displaced persons but also arises with refugees and notwithstanding greater clarity on the cessation of refugee status. Other factors including access, political motivations and sensitivities, and registration problems complicate the compilation of accurate statistics. See Jeff Crisp, *Who Has Counted the Refugees?: UNHCR and the Politics of Numbers*, UNHCR Working Paper No. 12 (June 1999).

persons themselves require and indeed have a right to receive information and guidance as to the duration of their classification as such, especially as this can have important implications on their entitlement to the benefits and, conversely, their subjection to any restrictions (legally or illegally), that this classification may entail.<sup>3</sup>

While some actors and organizations have begun to make determinations of when internal displacement ends, calculations tend to be ad hoc, arbitrary and made on a case-by-case basis. Moreover, in the absence of common criteria on this issue, the methodologies used and, consequently, the conclusions reached, differ among actors, often significantly. Increasingly, organizations working in the field, governments framing policies and programs for IDPs, and those preparing statistics, are pointing to the need for consensus and specific criteria on determining when displacement ends.

To address this critical question, OCHA has turned to the RSG on IDPs. The Deputy Emergency Relief Coordinator, in an official request to the RSG on IDPs, requested his advice and guidance “indicating when generically an individual would not only become an IDP but when he/she should no longer be considered under this category.” Though “the question is not new,” the Deputy ERC noted, “the answer has hitherto been quite elusive. Operational demands, however, increasingly dictate the requirement for a coherent response.” In response to that request and in consultation with OCHA, the Representative suggested that a first step would be to convene a small group of experts from international organizations and research institutions to examine the issues involved and identify steps for further action. Hence, today’s meeting which seeks to further advance thinking on this issue and in particular to begin to identify some of the major factors needing to be taken into consideration in determining when internal displacement ends.

This paper has been prepared with a view to helping to guide and stimulate the discussions. It begins with a brief discussion of what guidance on the issue can be distilled from the Guiding Principles on Internal Displacement. And while the definition of internally displaced persons used in the Principles and cited above covers internal displacement resulting from a number of different causes, including natural or human-made disasters or large-scale development projects, the paper primarily focuses on internal displacement owing to armed conflict, situations of generalized violence or egregious human rights abuses.<sup>4</sup> Because these are persons who, for the most part, would be considered refugees had they crossed an international border, the paper then examines, in Section II, the relevance and implications of the issue of cessation in the refugee experience. Turning to the issue of when displacement ends for IDPs, Section III provides snapshots of a number of case examples where internal displacement has been, or may risk being, determined to have ended, with a view to bringing into focus the different issues that arise and related factors that may need to be taken into consideration in developing general criteria. Towards this end, Section IV distills a number of possible criteria for consideration. The paper ends by posing a number of questions for participants to consider in the light of their or their

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<sup>3</sup> That IDPs have such a right is implicit in Guiding Principle 3 providing that internally displaced persons have the right to request and to receive protection and humanitarian assistance from the authorities and shall not be punished or persecuted for making such a request as well as Principle 20 providing that in connection with the right of every human being to recognition everywhere as a person before the law, internally displaced persons shall be issued with all documents necessary for the enjoyment and exercise of their legal rights.

<sup>4</sup> Indeed, given the different issues involved, separate context-specific inquiries into the issue of when internal displacement ends may be necessary for internally displaced persons uprooted by, on the one hand, development projects and, on the other, natural or human-made disasters.

organization's own approach to the issue. An Appendix to the paper restates and consolidates the various questions for consideration that are posed throughout the text.

## **I. The Guiding Principles on Internal Displacement**

The Guiding Principles on Internal Displacement, which spell out the rights and guarantees pertaining to internally displaced persons in all phases of displacement, do not contain a cessation clause as to their application, and deliberately so. After all, the definition of “internally displaced persons” used in the Principles (and cited above) is descriptive and non-legal in nature, denoting the factual situation of being displaced within one's country rather than conferring a special legal status to be granted and eventually possibly revoked.<sup>5</sup> Because being an “internally displaced person” depends upon the existence of objective facts, and not a process of legal recognition, this classification in principle continues to apply to people so long as the factual situation of internal displacement continues to exist. Cessation of the identification of an individual or group of individuals as “internally displaced” therefore would be contingent upon a change in the factual situation of displacement that the term denotes. For instance, if an internally displaced person flees or is forced to leave, or migrates to another country, s/he ceases, by definition, to be in a situation of internal displacement and instead becomes a refugee, migrant or national of another country as the case may be.<sup>6</sup>

For forcibly displaced persons who remain within their country of origin, the Guiding Principles in effect envisage three possible solutions to their situation of internal displacement: return “to their homes or places of habitual residence,” integration where they currently reside or resettlement in another part of the country. Guiding Principle 28 specifies that return or resettlement must occur voluntarily and that, in accordance with international principles, return must also occur in “safety and dignity”. Principle 29 specifies that internally displaced persons who have returned or resettled shall be protected against discrimination as a result of having been displaced, shall have the right to participate fully and equally in public affairs, and have equal access to public services. Furthermore, competent authorities have a duty and responsibility to assist returned or resettled internally displaced persons recover or receive compensation for property and possessions left behind or of which they were dispossessed upon displacement. This suggests that return or resettlement is more than the actual act of returning or resettling but presumes the existence of sustainable conditions to support the durability of return and resettlement.

## **II. The Relevance of the Refugee Experience**

Refugee law, though by definition not directly applicable to the situation of internally displaced persons, nonetheless has obvious relevance and can be instructive to consider, by analogy. Article 1C of the 1951 Convention on the Status of Refugees explicitly addresses the issue of

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<sup>5</sup> The *Annotations* to the Guiding Principles are unequivocal on this point: internally displaced persons need not and cannot be granted a special legal status comparable to refugee status. Whereas refugees require a special legal status because they have lost the protection of their own country and require substitute international protection in another country, internally displaced persons do not require substitute international protection. Rather, by virtue of the simple fact that they are human beings, they remain entitled to enjoy the full range of human rights and guarantees of humanitarian law, including those that are of special importance in addressing their particular vulnerabilities that arise from the fact that they are displaced. Walter Kälin, *Guiding Principles on Internal Displacement: Annotations* (Washington, D.C.: American Society of International Law and The Brookings Institution Project on Internal Displacement, 2000), p. 3, see also p. 8.

<sup>6</sup> See Walter Kälin, “The Legal Dimension,” in this report.

when refugee status ends by stipulating six circumstances under which an individual would no longer require and be eligible for refugee status and the international protection it affords. The first four of these “cessation clauses” concern actions taken by an individual to re-avail himself of the protection of his country of origin, in particular through voluntary repatriation, or to obtain the protection of another state, for example by acquiring the nationality of another country. The final two clauses, which are of particular relevance to the focus of this paper, concern changes that have occurred in the refugee’s country of origin such that “the circumstances in connection with which [s/]he has been recognized as a refugee have ceased to exist.” A series of guidelines by UNHCR and its Executive Committee shed further light on how the “ceased circumstances” provisions of the Convention should be interpreted. Briefly stated, improvements in the country of origin must constitute a “fundamental”, “stable”, “durable” and “effective” change in circumstances, which removes the basis for the fear of persecution.<sup>7</sup> In the instances over the years that UNHCR has invoked the “ceased circumstances” provisions, three types of developments had occurred in the country of origin: (1) the country gains independent statehood; (2) a successful transition to democracy; (3) the resolution of a civil conflict.<sup>8</sup>

A particular question of interest to this inquiry is: *whether and in what ways UNHCR’s invocation of the “ceased circumstances” provisions for refugees has implications for the determination of the cessation of internal displacement in the same country of origin?* In the case of Mozambique, for example, UNHCR’s invocation of the “cessation clause” to end refugee status for Mozambican refugees worldwide on 31 December 1996 appears to have been an important determining factor in the decision to consider there to be no longer any internally displaced persons in the country either.<sup>9</sup> However, when the RSG on IDPs visited the country that same month, he found that “despite the decision by the Government and the donor community no longer to target displaced groups, this in no way means that all internally displaced persons have returned.” Among the reasons cited were “a lack of confidence in the durability of peace, sometimes coupled with a reluctance to return to the area where they had experienced terror,” and a lack of transport to areas of return.<sup>10</sup>

⇒ *Should the return of refugees or cessation of refugee status be the determining factor for when internal displacement ends?*

Because UNHCR frequently assumes responsibilities for internally displaced populations and typically does so when these situations have a “refugee link”, it would be interesting to explore UNHCR’s own approach to the issue of when internal displacement ends and, in particular, whether it applies criteria similar to what it uses for refugees. To recall, refugee law envisages three scenarios when it would cease to apply to an individual refugee: (1) when the refugee returns to his/her country of origin; (2) finds another durable solution such as resettlement in another country; or (3) when an asylum state or UNHCR, invoking the “ceased circumstances” provisions cited above, determines that a refugee or, more likely, a group of refugees no longer requires international protection because it is safe for them to return and, consequently, ends their refugee status. By analogy, internally displaced persons, who remain in the country, would

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<sup>7</sup> Rafael Bonoan, *When is International Protection No Longer Necessary? The “Ceased Circumstances” Provisions of the Cessation Clauses: Principles and UNHCR Practice, 1973-1999*, Working Paper #8 (June 2001)

<sup>8</sup> *Ibid.*

<sup>9</sup> USCR, *Country Reports: Mozambique 1997* [online: [www.refugees.org/world/countryrpt/africa/mozambique.htm](http://www.refugees.org/world/countryrpt/africa/mozambique.htm)]

<sup>10</sup> United Nations, Commission on Human Rights, Report of the Representative of the Secretary-General on Internally Displaced Persons, *Profiles in Displacement: Mozambique*, UN Doc. E/CN.4/1997/43/Add.1, para. 26.

no longer be considered as such if there is a fundamental change of circumstances in the country enabling return or resettlement.

⇒ *In determining when displacement ends, does UNHCR apply the same criteria for internally displaced persons as it does for refugees?*

It is also important to consider the linkages between the cessation of refugee status and internal displacement. In Bosnia, the emphasis in the Dayton Agreement on the right of refugees and displaced persons “to return to their homes or places of origin” has led many refugees (most of whom were covered by the “temporary protection” regime established by UNHCR in response to the mass exodus of refugees) to be returned to the country prematurely (i.e. not necessarily voluntarily), before conditions were safe and supportive of sustainable return. Unable to return to their homes or areas of origin or, alternatively, to permanently resettle elsewhere in the country, many of these refugees returned to Bosnia only to become internally displaced persons. Property issues have been a major impediment to return, especially in the absence of effective compensation or restitution for lost property, as the Dayton Agreement also guaranteed. The homes of many of the refugees remained occupied, frequently by internally displaced persons who themselves were unable to return home, often due to same problem of their homes being occupied; at the same time many refugees ended up occupying homes abandoned by internally displaced persons, thereby impeding their return as well.<sup>11</sup> Application of the “cessation clauses” for refugees, rather than being a reason to consider internal displacement to also have ended, may require a different approach in cases which result, as the Bosnia case epitomizes, in an even greater number of internally displaced persons as returning refugees become internally displaced.

⇒ *To what extent does the complexity of the relationship between the cessation of refugee status and the issue of when internal displacement ends suggest the need for an integrated and comprehensive approach to refugees and internally displaced persons?*

### **III. The IDP Experience: Different Approaches Taken to Date**

The problem is not that a determination of internal displacement having come to an end is never made in particular situations but rather that this decision occurs on an *ad hoc* and arbitrary case-by-case basis, if at all, and on the basis of criteria that differ from one actor to another. “Governments decide it, organizations that count decide it or no one decides it.”<sup>12</sup> This section sets out a number of examples where internal displacement has been considered to have ended, with a view to illuminating the various issues and implications involved in these decisions, which should inform the development of universal criteria that are so urgently needed.

The U.S. Committee for Refugees (USCR), which compiles statistics on refugees and internally displaced persons and publishes these in its annual *World Refugee Survey*, is one of the few organizations to have spelled out a position on the issue. USCR considers there to exist two bases upon which to cease to consider an IDP as such: (1) when the person returns home or resettles locally; or (2) when the conditions that caused the displacement have improved to the

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<sup>11</sup> Amnesty International, *Bosnia-Herzegovina: “Who’s Living in My House?” Obstacles to the Safe Return of Refugees and Internally Displaced People*, AI Index: EUR 63/001/1997 (19 March 1997).

<sup>12</sup> Statement by Roberta Cohen, in *Proceedings of the Lecture Series, “Exodus Within Borders: the Global Crisis of Internal Displacement”*, co-sponsored by St. Cyril and Methodius University, the Brookings-CUNY Project on Internal Displacement, UNHCR Skopje, and the Open Society Institute, Skopje (2001), p. 12.

point that it should be possible for IDPs to return home safely. Using these criteria, USCR has removed from its global figures IDP populations in a number of countries over the years, including: Nicaragua (1992), El Salvador (1993), Eritrea (1994), Ethiopia (1995), South Africa (1995, for those displaced because of apartheid land policies), Mozambique (end 1996) and Guatemala (1998). As USCR acknowledges, in some cases its decision to cease to consider a group of persons as internally displaced proves controversial.<sup>13</sup>

For instance, in 1998 USCR removed the figure of 250,000 IDPs in Guatemala from its annual statistical table on the basis that Guatemalans who wished to return home were no longer prevented from doing so by conflict (which had ended in 1996) or fear of persecution. Others expressed the view that in the absence of compensation, these people should continue to be considered IDPs.<sup>14</sup> While continuing to defend this decision, USCR nonetheless noted in 2000 that many displaced Guatemalans had not as yet been able to return owing to “the government’s lack of political will and resources to provide the displaced the land and assistance they would need to return home.”<sup>15</sup> In 2001, the Inter-American Commission on Human Rights noted the existence of a number of persistent impediments to return: “the problem of the illegal occupation of land...the deficiencies of the title registry system, the lack of insufficiency of funds to buy land, the insufficiency productivity of the land, and unresolved claims of assistance.”<sup>16</sup> An additional problem faced by many thousands of internally displaced Guatemalans is the continued lack of personal identification documentation (provided for in the peace accords), as a result of which they “are unable to effectuate basic transactions, exercise their franchise to vote, gain access to a range of services, or obtain identification documents for their children.”<sup>17</sup> As an indication of the divergence in answers to the question of when internal displacement should be considered to end in Guatemala, the Global IDP Database notes that estimates of the number of internally displaced Guatemalans vary widely, ranging from zero to 250,000 at the end of 2001.<sup>18</sup>

USCR’s earlier decision to stop counting as IDPs the 3.5 million South Africans forcibly removed from their land as part of the policy of apartheid on the basis that the end of apartheid removed the obstacles to their return (regardless of whether all these IDPs actually did return) raises some similar issues. In particular, more than six years later, most of these former IDPs still await compensation.<sup>19</sup> These examples highlight different approaches taken and answers arrived at by different groups and organizations to the same situation of internal displacement, in particular raising the questions:

⇒ *Is the possibility of safe and voluntary return, regardless of whether it occurs, a sufficient criterion in and of itself for cessation of internal displacement?*

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<sup>13</sup> Statement by Bill Frelick, Director, U.S. Committee for Refugees, in *ibid.*, p. 58.

<sup>14</sup> *Ibid.*

<sup>15</sup> USCR, *Country Report: Guatemala* (2000).

<sup>16</sup> Organization of American States, Inter-American Commission on Human Rights, *Fifth Report on the Situation of Human Rights in Guatemala*, OEA/Ser.L/V/II.111, Doc. 21 rev. (6 April 2001), see Chapter XIV on the Human Rights of Those Uprooted by the Armed Conflict, pp. 6-7. The report is available at: [www.oas.org](http://www.oas.org)

<sup>17</sup> *Ibid.* It should be noted that the Guiding Principles specify that internally displaced persons shall be issued with all documents necessary for the enjoyment and exercise of their legal rights, including personal identification documents (Principle 20).

<sup>18</sup> Global IDP Database, *Guatemala Summary*, [www.idpproject.org](http://www.idpproject.org)

<sup>19</sup> ‘South Africa Survey,’ *Economist* (24 February 2001), p. 5. For USCR’s rationale for its decision and its basis on the complexity of the issue of compensation for this group of people, see Cohen and Deng, *Masses in Flight*, pp. 38-39.

⇒ *Should issues of compensation as well as conditions for the durability of return (ex. access to housing and public services and ability to earn a living) also be taken into account?*

There is also the issue of whether return will ever be a realistic possibility. This issue becomes particularly important to address in situations when internally displaced persons appear to be resettled in other parts of the country. Consider the case of Cyprus, where 250,000 persons were displaced as a result of Turkey's invasion of 1974. USCR, for example, continues to include internally displaced persons in Cyprus in its global statistics. The rationale provided for doing so is three-fold: the lack of a resolution to the conflict; the continued involvement of the United Nations in assisting the internally displaced; and the fact that even though the displaced have been resettled in their current locations for more than two decades, many maintain that they still wish to return home.<sup>20</sup> It is unclear whether this determination will be influenced by the fact that as of end 2001 the United Nations "no longer considers the humanitarian situation of the displaced population in Cyprus as a problem", as displaced persons in both parts of the island are considered to have been integrated by the respective authorities.<sup>21</sup>

⇒ *Do the factors of the lack of a resolution to a conflict producing internally displaced persons and the lingering hope of internally displaced persons to one day return home provide sufficient grounds to consider that internal displacement continues?*

To be sure, the latter factor of internally displaced persons holding on to the hope of return is a complex issue. The experience of exile (internal or external) and detachment from one's homeland typically engenders a mix of deep emotions stemming from the advantages (having found safety and freedom from persecution, better economic opportunities etc.) and disadvantages (detachment from home, community, place of origin) this situation entails. It will often be the case that internally displaced persons, along with refugees, migrants and other persons who have left or been forced to flee their home area or homeland, will hold on to the dream of return to one's place of home area or homeland for many years, if not throughout their lives. In addition to the case of Cyprus, consider the following anecdote from Burundi: A UNICEF official recently recounted to the author a visit in late 2000 to a resettlement site of people no longer considered to be "internally displaced persons". The shelters built were designed to be permanent, people had access to good quality land enabling them to farm for self-sufficiency as well as generate some income, and the general conditions of the site were considered to be quite good by country standards. The UNICEF official asked a group of IDPs whether they considered this site to be home. They replied that they did *not* consider the resettlement sites "home" and that they fully planned on returning "home", to their places of origin, one day.<sup>22</sup> An individual's sense of attachment to her or his place of origin and association of this place, alone, with "home" clearly can be very powerfully felt, and may remain so regardless of the conditions in areas of resettlement.

It is difficult to gauge, however, whether this dream of return goes beyond sentimental attachment to one's original hometown or village to indicate a readiness to return home as soon as this becomes a realistic option. On what basis would internally displaced persons make this decision? Is it sufficient for there to be safety and freedom from fear of persecution in areas of

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<sup>20</sup> Roberta Cohen and Francis M. Deng, *Masses in Flight: The Global Crisis of Internal Displacement* (Washington, D.C.: Brookings, 1998), pp. 37-38.

<sup>21</sup> See Global IDP Database, *Cyprus: Profile Summary*, [www.idpproject.org](http://www.idpproject.org)

<sup>22</sup> Conversation with UNICEF official, New York, March 2002.

return or would their decision to return be contingent upon other factors? In Peru, though the conflict has abated, a number of internally displaced persons have not returned home. A study in 1998 cited issues of safety and insufficient assistance to returnees, while for others the explanation lay in the fact that they had adapted to life in the city.<sup>23</sup> Indeed, in situations of internal displacement the world over, it is often the case, especially when displacement occurs from rural to urban areas, that the displaced come to prefer the conditions in the cities (where there tend to be more employment opportunities and better access to public services for instance) to those they left behind. Young people in particular are less apt to return home, especially if the skills they develop during displacement are not suited to the rural, often agricultural, life of their parents.

⇒ *Should people whose reluctance to return stems not from concerns for their safety but better socioeconomic conditions in their area of refuge, continue to be considered internally displaced?*

There is also a risk that too much emphasis on return may preclude internally displaced persons from alternative solutions to their situation or otherwise restrict their right to integrate. In Azerbaijan and Georgia, where nearly a million internally displaced persons have been displaced for upwards of a decade, return is the only solution for the displaced that the governments are willing to seriously consider, as it serves the political objective of regaining and then consolidating control over territories lost to insurgent groups. While many internally displaced persons share this goal of return, they also are eager to have more meaningful, dignified and productive lives in the interim: many remain in temporary and dilapidated accommodation and dependent on international assistance but denied the right to own land or property or until recently, to benefit from skills-training and access income-generating opportunities.<sup>24</sup> In Georgia, IDPs are not even able to vote in all elections without risking losing their inclusion on the national IDP registry and the benefits, albeit modest and often severely delayed in delivery, that this entails.<sup>25</sup> These cases raise the question:

⇒ *Does the continued categorization as “IDP” restrict integration? Conversely, would local integration argue against their continued categorization as IDPs?*

In Rwanda, an internal OCHA study of December 2000 found that OCHA and UNHCR field offices had decided that it would be unhelpful to continue to consider as IDPs the large numbers of Rwandans uprooted in two distinct waves of internal displacement. The first group consists of people displaced during the 1994 genocide who are unable or unwilling to return to their areas of origin, since resettlement, supported by the government, is considered to provide an alternative durable solution. The second group consists of people displaced in the Northwest due to insecurity in 1997-1998, who for the most part were displaced as part of a policy of forced

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<sup>23</sup> Cohen and Deng, *Masses in Flight*, p. 36.

<sup>24</sup> See United Nations Commission on Human Rights, Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng, *Profiles in Displacement: Azerbaijan*, UN Doc. E/CN.4/1999/79/Add.1 (25 January 1999); United Nations Commission on Human Rights, Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng, *Profiles in Displacement: Georgia*, UN Doc. E/CN.4/2001/5/Add.4 (19 December 2000).

<sup>25</sup> In a significant recent development, in March 2002, the Government of Georgia informed the Human Rights Committee that in the light of changes to the Electoral Code, '[i]nternally displaced persons were entitled to participate in elections of any kind' and would 'not lose their right to receive social assistance when they participated in an election.' United Nations, *Press Release: 'Human Rights Committee Takes Up Second Report of Georgia'*, 18 March 2002; United Nations, *Press Release: 'Torture, Criminal Justice Reform, Religious Freedom Among Issues Addressed as Human Rights Committee Concludes Discussion of Georgia's Report'*, 19 March 2002. It will be important to monitor the adherence to these commitments; IDP leaders and advocates have informed the author that they were not entirely confident that these assurances would be met in the elections scheduled for later this year.

relocation undertaken by the army for “security reasons”. Over the course of the year 2000, the government implemented the “imidugudu” program of rural resettlement (sometimes dubbed “villagization”)<sup>26</sup> according to which the majority of these people were resettled in new sites “considered to be final”.<sup>27</sup> And yet, the internal OCHA study found that “[a]lthough returnees and relocated populations in these new ‘imidugudu’ schemes are not considered internally displaced, the situation of a large proportion of them remains inadequate in terms of coverage of basic needs...up to 370,000 families are still in a situation of vulnerability.” While these people did have shelter, “the need for sustainable livelihoods was often overlooked both by the international community and the Government.” “So many Rwandans [who] have experienced displacement in recent history,” the report continued, “have not yet found...a stable way of life.”<sup>28</sup> Another assessment concludes that the majority of the persons in these sites have been reduced to “total dependency”, especially as they are unable to adequately access and cultivate land.<sup>29</sup> Removing these two groups of internally displaced populations from the overall tally for the country led OCHA and UNHCR to arrive at a total number of 6,340 IDPs in Rwanda at the end 2000, covering persons for whom such “durable solutions” had not yet been undertaken as well as several thousand displaced due to drought.<sup>30</sup> These findings, which it must be noted generated considerable discussion within OCHA, beg the question:

⇒ *Is a “durable solution” required in order to consider internal displacement to have ceased and, if so, what constitutes a “durable solution” for internally displaced persons?*

Consider the case of Angola, where it is the policy of the government that the classification of “displaced” holds only for the first six months of displacement; after which people are considered to be “integrated”, regardless of whether there has been a change in their circumstances.<sup>31</sup> The RSG on IDPs, in his mission to the country in November 2000, found that many uprooted Angolans who, under this policy, were considered to be “integrated” were nonetheless in need of protection and assistance and continued to have special needs as a result of having been displaced.<sup>32</sup>

In Colombia, Presidential Decree 2569 enumerates three circumstances under which internal displacement would be considered to have ended: (1) successful return or resettlement, which is defined as entailing “access to economic activity”; (2) exclusion of an individual from the government’s central IDP registry; and (3) upon request by the individual IDP. All three factors, however, have been challenged on legal grounds.<sup>33</sup> The first scenario of “successful return or resettlement” to be indicated by the “gain of access to economic activity” is more restrictive than

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<sup>26</sup> While the program generally has been promoted as a means of addressing the housing crisis and supporting economic development, outside observers suggest that it is primarily motivated at preventing further insurgency: the depopulation of outlying rural areas and scattered settlements facilitates the army’s task of ferreting out rebel hideouts; which nonetheless does have the effect of improving the security of farming populations. See Jon Bennett, “Forced Relocation in Uganda, Rwanda and Burundi: Emerging Policy,” *Forced Migration Review*, Issue 7 (April 2000), pp. 28-30.

<sup>27</sup> OCHA, Mission Report: Displacement and Resettlement in Rwanda. Report on Mission to Rwanda, 6-12 December 2000 by Thomas Linde, Senior Adviser on IDPs, OCHA.

<sup>28</sup> *Ibid.*, paras. 12 and 15.

<sup>29</sup> Bennett, pp. 29-30.

<sup>30</sup> OCHA Mission Report, para. 10.

<sup>31</sup> Karen Jacobsen, ‘Some Problems with Conducting Research on IDP Livelihood Strategies’ in *Response Strategies of the Internally Displaced*, *op.cit.*, p. 22.

<sup>32</sup> United Nations Commission on Human Rights, Report of the Representative of the Secretary-General on Internally Displaced Person, Mr. Francis Deng, *Profiles in Displacement: Angola*, UN Doc E/CN.4/2001/5/Add.5 (25 January 2001). See for example paragraphs 16, 17 and 23.

<sup>33</sup> *Report on Forced Displacement in Colombia, January 2000-May 2001* (GAD: August 2001), pp. 23-24.

the national law on internally displaced persons (Law 387) which specifies that the condition of displacement ceases “when stabilization and socioeconomic consolidation is achieved.” This criterion is understood as entailing economic as well as social restitution and would require the government to invest in social and economic infrastructure and income generating projects to support the durability of return or resettlement. The second scenario of exclusion from the state registry of IDPs has been challenged by the Constitutional Court, the Ombudsman’s Office and Colombian NGOs on the basis that the registry is simply an administrative mechanism regulating access of IDPs to assistance but has no bearing on the factual situation of being displaced. Indeed, it should be noted that many internally displaced persons fear identification through registration and therefore do not register; yet they remain internally displaced. Many others face considerable bureaucratic and other impediments in becoming officially registered by the government and consequently in accessing the entitlements that registration as a *desplazado* entails.<sup>34</sup> While removal from the registry may, in the view of the government, exclude an individual from particular benefits, the very fact that hundreds of thousands of persons who are objectively considered to be displaced are not included on the registry underscores that exclusion from the registry is not an indicator of an individual’s *de facto* condition of displacement.

Recall from the discussion of the Guiding Principles above that being an “internally displaced person” depends on the existence of objective facts, and not on a process of legal recognition for conferring a special status, which could then be revoked.<sup>35</sup> A similar logic provides the basis for rejecting the third scenario whereby classification as an internally displaced person could terminate upon the request of the individual concerned.<sup>36</sup> Instead of the three scenarios provided for in the Presidential Decree, it is suggested that only when the security of internally displaced persons can be assured and the original causes of displacement are removed that displacement can formally be considered to have ended in Colombia.<sup>37</sup>

Finally, but looking ahead, in Indonesia, where there are currently over a million IDPs, the government has announced that by the end of 2002 there will be none. The RSG on IDPs, in the report of his mission to the country in September 2001, queried the feasibility of ending what is a sizeable problem of internal displacement in Indonesia in such a short time-frame.<sup>38</sup> The implications for the populations involved remain unclear and of potential concern. There is evidence to suggest that IDPs who are unable to return in the absence of a settlement to the conflict that uprooted them may simply become urban poor.

#### **IV. A Need for Criteria**

Clearly, there are many different ways of approaching the issue of when internal displacement ends. If one were to ask IDPs, most, including those who have been resettled for several years if

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<sup>34</sup> United Nations Commission on Human Rights, Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng, *Profiles in Displacement: Colombia*, UN Doc. E/CN.4/2000/83/Add.1 (11 January 2000), paras. 80-82

<sup>35</sup> This does not, however, preclude administrative measures such as registration of internally displaced persons as a means of identifying those internally displaced persons who are in need of assistance. At the same time, the lack of such registration would not deprive internally displaced persons of their entitlements under human rights and international humanitarian law. On this point, see Kälin, *Annotations*, p. 3.

<sup>36</sup> *Report on Forced Displacement in Colombia, January 2000-May 2001*, p. 24.

<sup>37</sup> Workshop on the UN Guiding Principles on Internal Displacement and the National IDP Legislation in Colombia, Santa Fe de Antiquia, Colombia, 15-17 May 2001, p. 4.

<sup>38</sup> United Nations, Commission on Human Rights, Report of the Representative of the Secretary-General on Internally Displaced Persons, UN Doc. E/CN.4/2002/95/Add.2 (15 February 2002).

not decades, likely would still say that they hold a hope of returning home. This individual sentiment and desire of return to one's home area and community may never fade, however, it must be recognized that it also may not be an entirely reliable indicator of their intentions should safe and durable return become possible. Arguably, it is not a realistic basis for determining when internal displacement ends, at least not for the very practical issues of concern, such as compiling statistics and formulating programs and budgetary plans for addressing their needs, which have brought this matter to the fore in the international arena.

But what benchmarks or criteria should be used for determining when internal displacement ends? From the empirical analysis in the last section, a number of questions emerge from the many different ways of approaching the issue and the considerations that these raise (see Appendix for a consolidated list of the questions posed). The approaches taken to date largely center around the issue of solutions, and are reflected in three possible questions to consider as to when internal displacement ends. Does it end –

- ⇒ *When there is a fundamental change of circumstances, that is, the situation causing displacement ceases to exist, enabling voluntary and safe return (i.e. the refugee analogy)?*
- ⇒ *When a person actually returns? But what if their homes and land are occupied by others or there are other socioeconomic factors impeding sustainable return and enabling them to resume productive lives?*
- ⇒ *When an IDP resettles and reintegrates into another area? Some IDPs, after all, may not feel safe returning to their areas of origin or there may not be a change of circumstances, even over a protracted period, enabling them to return. If they are integrated in another area of the country and receive national protection but still hold the hope of return, are they still IDPs (e.g. Greek Cypriots)?*

Another way of demarcating this large issue is to look at the issue of institutional responsibility (both national and international) for the internally displaced. At issue here is not so much the question of institutional mandates but rather a consideration of when international and national responsibility ends in terms of undertaking specific measures to address the particular needs of internally displaced persons, compared with the population in general. Internally displaced persons, it was noted in the introduction, have particular needs and vulnerabilities that arise from their condition of displacement and warrant special attention from the government concerned and possibly also the international community. Essentially, then, the issue may be framed as one of needs and obligations to fulfill them. However, this raises the question: *When do the particular needs of IDPs end?* A number of sub-questions follow as to the criteria and method for answering this question:

- ⇒ *Should the benchmark be: when the IDP ceases to need international protection and/or national protection, i.e. the refugee analogy?*
- ⇒ *Should the benchmark also be: when an IDP ceases to require international and/or national assistance? If so, how should "assistance" be defined: would this be limited to emergency assistance or should it also include reintegration and development assistance in support of sustainable return or resettlement?*
- ⇒ *Who makes the decision that protection and assistance are no longer needed? In the case of refugees, UNHCR plays an important role in invoking the cessation*

clause and the host country decides whether refugees may remain or must repatriate if there are changed circumstances in the country of origin. In the context of internal displacement, however, when the government of the country of origin may be hostile to the internally displaced populations and may even have caused their displacement, putting the responsibility on the government to make these determinations may be problematic. At present, no international organization has a similar authority as that which rests with UNHCR for refugees, to declare that there is no longer a need to provide internally displaced persons with protection and assistance.

⇒ *When donors reduce or cut off aid, what impact does this have on the categorization of persons as IDPs? Is it helpful to IDPs to consider them as such long after their displacement?*

### **Your Own Experience – Additional Questions to Consider:**

*(1) How would you or your organization characterize when internal displacement ends? On what basis? Is, for instance, the possibility of safe and voluntary return sufficient or do other factors need to be taken into account?*

*(2) Do you or your organization apply the same criteria in all circumstances or do you find there to be country-specific factors calling for a case-by-case approach?*

*(3) Would application of criteria lead you to reach the same conclusions arrived at in the case examples in this paper? Which, if any, of these examples provides a useful model and why?*

*(4) Why do you or your organization consider it important to reach a consensus on the determination of when displacement ends? What do you consider to be the most compelling reasons (ex. statistics, operational programming etc.) for doing so?*

*(5) Are you or your organization aware of or undertaking any relevant research on the issue of when internal displacement ends? What specific aspects of the issue do you feel need pressing attention? What particular case studies come to mind and why?*

## Appendix

### CONSOLIDATED LIST OF QUESTIONS RAISED IN THE TEXT

1. *Should the return of refugees or cessation of refugee status be the determining factor for when internal displacement ends?*
2. *In determining when displacement ends, does UNHCR apply the same criteria for internally displaced persons as it does for refugees?*
3. *To what extent does the complexity of the relationship between the cessation of refugee status and the issue of when internal displacement ends suggest the need for an integrated and comprehensive approach to refugees and internally displaced persons?*
4. *Is the possibility of safe and voluntary return, regardless of whether it occurs, a sufficient criterion in of itself for cessation of internal displacement?*
5. *Should issues of compensation as well as conditions for the durability of return (ex. access to housing and public services and ability to earn a living) also be taken into account?*
6. *Do the factors of the lack of a resolution to a conflict producing internally displaced persons and the lingering hope of internally displaced persons to one day return home provide sufficient grounds to consider that internal displacement continues?*
7. *Should people whose reluctance to return stems not from concerns for their safety but better socioeconomic conditions in their area of refuge, continue to be considered internally displaced?*
8. *Does the continued categorization as “IDP” restrict integration? Conversely, would local integration argue against their continued categorization as IDPs?*
9. *Is a “durable solution” required in order to consider internal displacement to have ceased and, if so, what constitutes a “durable solution” for internally displaced persons?*
  - *When there is a fundamental change of circumstances, that is, the situation causing displacement ceases to exist, enabling voluntary and safe return, (i.e. the refugee analogy)?*
  - *When a person actually returns? But what if their homes and land are occupied by others or there are other socioeconomic factors impeding sustainable return and enabling them to resume productive lives?*
  - *When an IDP resettles and reintegrates into another area? If IDPs are integrated in another area of the country and receive national protection but still hold the hope of return, are they still IDPs?*

*10. Should the benchmark be: when the IDP ceases to need international protection and/or national protection, i.e. the refugee analogy?*

*11. Should the benchmark also be: when an IDP ceases to require international and/or national assistance? If so, how should “assistance” be defined: would this be limited to emergency assistance or should it also include reintegration and development assistance in support of sustainable return or resettlement?*

*12. Who makes and should make the decision that protection and assistance are no longer needed?*

*13. When donors reduce or cut off aid, what impact does this have on the categorization of persons as IDPs? Is it helpful to IDPs to consider them as such long after their displacement?*

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## **The Legal Dimension**

### **by Walter Kälin**

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The Guiding Principles on Internal Displacement do not explicitly address the question of when displacement ends, i.e. when these principles no longer apply.

Unlike Article 1C of the 1951 Convention on the revocation of refugee status, the Principles do not contain any cessation clauses that would determine when their application ceases.

This is not a gap in the Guiding Principles but a consequence of one of the basic premises upon which they rest; IDPs have many specific protection and assistance needs by nature of their displacement and this is why the Principles spell out in detail their entitlements. However, like other vulnerable groups such as children, or the wounded and the sick, IDPs do not constitute a distinct legal category. Their status of being displaced does not need to be legally recognised in order to get certain legal entitlements.<sup>39</sup> They are already entitled to the human rights and humanitarian law protection that is available to them as to all other citizens in their country and they can invoke without any additional requirement those guarantees that have become particularly relevant to them because of their displacement. In this context, a requirement of “displaced status determination” analogous to the refugee status determination under the 1951 Convention would be dangerous as it could easily be turned into an instrument of denying rights that they already enjoy. However, if from an international law perspective IDPs do not possess a specific legal status, a cessation of this status similar to Article 1C is inconceivable.

While the lack of a cessation clause in the Guiding Principles is thus justified, the question as to how one should determine when displacement ends remains highly relevant. There are three possible methodological approaches to answering this question.

### **Cessation in international law**

The first approach is to look at how the different areas of international law upon which the Guiding Principles are based (human rights law, humanitarian law and refugee law by analogy) address the issue of cessation. This approach helps to solve the problem discussed here in a limited way only.

The cessation clauses in Article 1C of the 1951 Convention on the Status of Refugees are of limited relevance for IDPs. First, of all the grounds mentioned in this provision, only paragraph 5 allowing for cessation if “the circumstances in connection with which he has been recognised as

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<sup>39</sup> This does not exclude that IDPs are registered for practical purposes.

a refugee have ceased to exist” could be applied to IDPs by analogy. The other reasons<sup>40</sup> are intimately linked to the concept of *international* protection for refugees who need that kind of protection because they are abroad. Second, this ground refers to the cessation of a *legal status*, i.e. a concept that is alien to the law on internal displacement. Finally, the Guiding Principles themselves are not limited to displaced persons in the strict sense of the word. They also deal with former IDPs when mentioning the duty of authorities to facilitate the reintegration of returned or resettled persons (Principle 28) and to support them in efforts to regain their property (Principle 29, paragraph 2) or when prohibiting the discrimination of former IDPs (Principle 29, paragraph 1).

The idea of “cessation” is absolutely alien to human rights law. Human rights remain applicable even if someone no longer is an IDP. Thus, for example, the rights to leave the country or to seek asylum (Principle 15) are not lost because someone has given up the idea of return to his or her original place of residence or is fully integrated in the location where he or she found refuge before leaving the country. Likewise, the prohibition of discrimination against returnees or resettlers as a result of their having been displaced (Principle 29) remains applicable even if several decades have elapsed since the end of displacement, provided that the discriminatory treatment continues. By contrast, humanitarian law guarantees are only applicable during an armed conflict. Regarding the applicability of those principles that are based on the Fourth Geneva Convention, Article 6, for example, is relevant, stating that the application of the present Convention shall cease “on general close of military operations” and “[i]n the case of occupied territory ... one year after the general close of military operations”. The prohibition against using IDPs “to shield military objectives from attack...” in Principle 10(2)(c) has no relevance outside situations of armed conflict even if some remain IDPs after the end of hostilities. It is only regarding those principles that reflect humanitarian law that we can get some guidance from international law on the issue of the duration of application of the Guiding Principles.

## **Solutions**

The second approach – analogous to the discussion of “solutions” in refugee law and policy – is to look at the factual side of displacement. This is helpful as it allows us to distinguish between the following three situations:

i) As soon as an IDP leaves his or her country of origin, the Guiding Principles are no longer applicable. Such a person is no longer in the situation of internal displacement but instead becomes a refugee or a migrant as the case may be. Here, displacement ends when the person concerned crosses the frontier of that country.

ii) Displaced persons are no longer IDPs in the sense of the Guiding Principles if they “have returned to their homes or places of habitual residence” (Principle 29) but they continue to enjoy the rights of returnees as long as they need such protection (Principles 28-30). Once they are (re)integrated, have regained their property or received compensation and are no longer discriminated against because of their former displacement, the Guiding Principles cease to apply.

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<sup>40</sup> Article 1C paras 1 and 2 (the refugee has regained the protection of his country), para 3 (the refugee has acquired a new nationality), para 4 (the refugee has returned to the country of origin) and para 6 (ability of a stateless person to return to the country of his or her former habitual residence).

iii) The same is true of former IDPs who “have resettled in another part of the country” (Principle 29) and are no longer in need of protection under Principles 28-30. Such resettlement, for obvious reasons, must be firm and permanent.

## **Mandates**

A third approach is to look at the mandates of humanitarian agencies and other organisations involved in assisting and protecting IDPs. The mandate of ICRC, for example, may terminate at the end or soon after the end of an armed conflict whereas a development agency may continue to be responsible for very long periods of time for IDPs who cannot return. Other organisations may be mandated to supply housing during displacement and not to returnees. Every organisation will have to determine on the basis of its own mandate when it has to stop to provide assistance and protection.

## **Conclusions**

The factual situation of displacement in most cases changes and ends *gradually* and not abruptly. Similarly, the specific needs of IDPs change gradually over time. For these reasons, it is not possible, and would be wrong to try, to define cessation clauses analogous to Article 1C of the Refugee Convention that would fix a specific moment when displacement is considered to have ended. Rather, it is appropriate:

- (a) to clearly separate the issue of when the mandate of an organisation requires it to cease providing assistance and protection to IDPs (to be decided specifically by each organisation) from the issue of ending the application of the Guiding Principles (and the hard law underlying it);
- (b) to focus, when deciding about cessation issues, on the needs of IDPs and to provide them with assistance and protection as long as they continue to have specific needs that are or have been caused by their being displaced;
- (c) to combine, regarding the applicability of the Guiding Principles, the second and first approach, i.e. (i) to ask whether a particular principle still satisfies a continuing need of a person arising out of the fact that he or she was displaced and (ii) to examine whether, in legal terms, such application is possible because the underlying hard law is protecting the person concerned in his or her present situation; and
- (d) to stress that relevant human rights and humanitarian law guarantees contained in hard law may remain applicable even if the person concerned, due to return or resettlement, no longer has special needs related to the former displacement.

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## Criteria for Determining the End of Displacement: Three Options for Consideration by Susan Martin and Erin Mooney<sup>56</sup>

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These criteria are intended to stimulate discussion for determining when the international community should no longer consider internally displaced persons (IDPs) as such. These criteria are not mutually exclusive and indeed include overlapping elements.

**Cause-based criteria.** One way to look at the issue would be to focus on the causes of internal displacement and, drawing on the refugee analogy, consider the existence of “changed circumstances” from those that had compelled flight to signal the end of displacement. In other words, a person would cease to be an IDP when there is a change in the circumstances that originally caused the displacement. According to UNHCR, a change in circumstances that would warrant application of the cessation clauses of the Refugee Convention must involve the complete political transformation of the refugee’s country of origin. Evidence of such transformation may include significant reforms altering the basic legal or social structure of the state, democratic elections, declarations of amnesties, repeal of oppressive laws and dismantling of former security services. The changes must be assessed over time -- a minimum of 12 to 18 months. In short, improvements in a country of origin must constitute a “fundamental,” “stable,” “durable,” and “effective” change in circumstances from those that created refugees. Applying the same logic to situations of internal displacement, displacement ends (as an issue of international concern) when there are similar political changes in the IDPs’ own country. Though the refugee cessation clause focuses on persons fleeing persecution, one could construct similar criteria to address displacement from conflict, natural disasters, and other reasons outlined in the Guiding Principles on Internal Displacement as causes of internal displacement.

**Solutions-based criteria.** Internal displacement may be considered to be at an end when IDPs return to their home communities or (re)settle in another community (either in the country of origin or in another country). This is similar to the criteria in Article 1, Section C of the Refugee Convention, which state that the Convention shall not apply to people who would otherwise be refugees if they voluntarily return to the country from which they previously fled, or if they acquire the nationality of another country. The end of displacement thus would occur when an IDP, having secured or being able to secure national protection, either in his or her original home community or in another location, no longer needs international protection. Following the refugee criteria, the return must have been undertaken voluntarily and in safety and dignity, and the IDP must also have reintegrated in the community of origin. Similarly, local integration or resettlement must be voluntary and the IDP must be able to exercise all of the rights and fulfill all of the obligations of other nationals of the new community or country. Solutions may involve compensation for loss of property, for example, for land appropriated to build dams, pipelines or other development projects. Again following the refugee analogy, the international community would have a responsibility to monitor that the returning/resettled IDPs are safe and that they

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<sup>56</sup> These criteria were prepared for meetings on when displacement ends held in 2002 and 2004.

have indeed reintegrated. Reintegration is a gradual process, particularly when return or resettlement occurs in countries in transition from conflict. It can be measured by full participation of former IDPs in the social, economic and political life of the community.

**Needs-based criteria.** This approach to the end of displacement focuses on the continued existence of IDP-specific needs and vulnerabilities. When IDPs no longer have specific protection, assistance or reintegration needs related to their displacement, the international community would no longer consider them to be of international concern (although their displacement may continue and they may continue to have needs based on poverty or disability). These criteria could apply to IDPs who are able to access the protection and assistance of their national governments, are not discriminated against in the exercise of their rights or have particular unmet needs on the basis of being displaced, and therefore do not need special international assistance and protection. It could also include IDPs who are able to support themselves and their families or who have social support networks that can assist them (although they would be considered IDPs if they have protection needs). The Guiding Principles on Internal Displacement provide guidance useful in developing criteria for determining needs that are specifically related to displacement and assessing whether the specific protection, assistance and reintegration needs of IDPs have indeed been met.

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## Summary Reports of Meetings on When Displacement Ends

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### *I. Meeting sponsored by*

*The Brookings Institution Project on Internal Displacement  
Georgetown University's Institute for the Study of International Migration*

*22 April 2002*

*The Brookings Institution, Washington, DC*

### **Introduction**

The need for this meeting arose from an increasing number of requests for criteria to determine when internal displacement ends. Queries emanated from organizations working in the field with internally displaced persons (IDPs), governments framing policies and programs for IDPs, and organizations and researchers compiling statistics. In response, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) requested the Representative of the United Nations Secretary-General on Internally Displaced Persons, Dr. Francis M. Deng, to provide guidance on “when generically an individual would not only become an IDP but when he/she should no longer be considered under this category”. In making this request, OCHA emphasized, “operational demands...increasingly dictate the requirement for a coherent response.”

Several papers were made available at the meeting, including a discussion paper prepared by Erin Mooney and a legal commentary by Walter Kälin.

The 30 participants in the meeting included representatives from international organizations and NGOs as well as experts from universities and research institutions (see List of Participants).

### **Overview of Discussion Paper**

Following introductory remarks by Dr. Deng, Erin Mooney introduced the discussion paper. She began by noting that the paper would be part of an ongoing research project that would build on the conclusions of the meeting and involve further research and consultation.

To begin with, the discussion paper reviewed the reasons why the question of when internal displacement ends is critical to address: for compiling reliable and agreed statistics; formulating government and international programs and policies to address the needs of IDPs; determining issues of institutional responsibility; and informing IDPs of the duration of the benefits and possible restrictions associated with this classification. She noted that although some actors and organizations have begun to make determinations of when internal displacement ends, this occurs on an *ad hoc*, arbitrary and case-by-case basis. Moreover, in the absence of common

criteria on the issue, the methodologies used and, consequently, the conclusions reached can differ among actors, often significantly. Towards the aim of developing common criteria, the discussion paper sought to help participants identify the main factors that would need to be taken into account in determining when internal displacement ends.

The paper examined the issue first in the light of the Guiding Principles on Internal Displacement. Though the Principles do not expressly address the issue of cessation, they nonetheless offer important guidance in three respects. First, the definition of “internally displaced person” used in the Principles defines the objective factual circumstances of internal displacement. Second, the Principles envisage three possible solutions to internal displacement: return, local integration, or resettlement. Third, the Principles spell out a number of conditions to be met in order for these solutions to be considered effective in terms of being safe and sustainable.

The paper then considered the relevance of the refugee experience, which, though not directly applicable to internally displaced persons, nonetheless can be instructive to consider by analogy. Reference was made to the “cessation clause” provided for in refugee law and in particular the “ceased circumstances” provisions according to which refugee status ends when the circumstances in connection with which a refugee has been recognized as such cease to exist. Possible implications that the cessation of refugee status could have for determining an end to internal displacement in that country or, conversely, actually increasing the number of internally displaced were explored through case examples.

Turning specifically to the IDP experience, the paper reviewed a number of cases where internal displacement had been determined, by one organization or another, to have ended and it identified issues and implications arising from these decisions. From this empirical analysis, a number of questions emerged, including: Is the *possibility* of safe and voluntary return a sufficient criterion for cessation of internal displacement? Should the benchmark instead be a durable solution, and if so how should this be defined? Do socioeconomic conditions supporting the durability of return also need to be taken into account? Is property restitution or compensation a further pre-requisite? To what extent should the hope internally displaced persons hold of return be a factor and for how long, especially if there is no realistic possibility of return in sight? What if they integrate locally, if only as an interim measure? Moreover, can continued categorization as IDPs be disadvantageous in impeding other solutions, for instance their ability to integrate locally or resettle rather than return?

The final section of the paper distilled from the analysis three different possible approaches to answering the question of when internal displacement ends. The first approach, drawing on the refugee analogy, is situational, that is, that displacement ends when there is a fundamental change in the circumstances that caused displacement in the first place. Another possible approach is solutions-oriented, requiring implementation of one of the three possible solutions of return, resettlement or local integration, and according to conditions ensuring a safe and durable solution. A third way of looking at the issue is a needs-based approach of determining when the particular needs of internally displaced persons cease, together with the obligations of governments and the international community to take special measures to address these needs.

Reflecting the three main sections of the discussion paper, the meeting was structured around three issues: the refugee experience; the IDP experience; and, on these bases, considering what has been and should be the criteria for deciding when internal displacement ends.

### **The Refugee Experience**

Rafael Bonoan, whose research at MIT focuses on refugee cessation, elaborated on the standards and indicators that UNHCR had formulated for interpretation and application of the cessation clauses contained in the 1951 Refugee Convention. Briefly stated, these criteria require the occurrence of changes in the country of origin that are “fundamental” in removing the basis for persecution as well as “durable”, lasting a minimum period of one year and upwards of three years or more. The circumstances that had created refugees will have an important bearing on the type of changes required. For example, whereas a peace agreement indicates the resolution of armed conflict, persecution as the cause of refugee movements is more systematic and engrained in a country’s political and administrative structures. As to the relevance of the refugee experience to IDPs, Mr. Bonoan noted that because UNHCR focuses on the country of origin in its determination of the cessation of refugee status, it has an influential role in deciding when internal displacement ends. Accordingly, greater clarity on when internal displacement ends would benefit the protection both of refugees and IDPs, particularly in post-conflict situations.

Providing the UNHCR perspective, Guenet Guebre-Christos (Regional Representative of UNHCR in Washington) stated that UNHCR rarely applies the cessation clauses of the 1951 Refugee Convention and indeed has been criticized on this basis. With respect to IDPs, she stressed the importance of being flexible and assessing the issue of when internal displacement ends on a case-by-case basis. Referring to the case of Rwanda summarized in the discussion paper, she pointed to the difficulty of reconciling the conclusion by the UN field office that there were no longer IDPs in the country, with the determination that there remained considerable “unmet needs” among the internally displaced.

Dr. Patricia Weiss Fagan (Georgetown University) was also called upon because of her experience with refugee resettlement in Central America. In her view, repatriation had been most successful when it was regarded as a process in which all UN agencies -- UNHCR as well as development agencies and human rights actors -- had a shared responsibility. Moreover, she stressed that ending a situation of displacement and its related needs is a gradual process; it does not happen overnight or simply with the physical movement of return. In this connection, and picking up a point in Walter Kälin’s commentary, she noted that when refugees or IDPs return, they typically are referred to as “returnees”, a classification which signals that although they have returned, they continue to have special needs and vulnerabilities. She suggested that integration, whether upon return or resettlement, is the key criterion of when displacement ends. As to when an IDP can be considered to be integrated, it is important to examine how the situation of the IDP compares with that of the local population (including the war-affected who did not move) as regards physical safety, access to services etc. She also stressed that return should not be a prerequisite for providing reintegration support. In Colombia, for example, encouraging return has put people in greater danger because the areas of potential return are not necessarily safe, while at the same time municipalities in areas where IDPs are located are unwilling to expend resources on reintegration support since they expect IDPs to return home. Furthermore, patterns of return will differ within the family unit; young people are less likely to

return home, especially if this involves moving from urban to rural areas after a protracted period of displacement.

As to the refugee connection, she noted that because UNHCR typically works with local communities in areas of refugee return, it likely would be working with IDPs as well. In her experience, whenever UNHCR has had more resources available to support repatriation, it has tended to do better in taking the needs of IDPs into account. Moreover, she pointed out that although Mozambique is considered one of the most successful refugee repatriations, once the emergency phase ended and UNHCR left, the process really came to a halt, underscoring the need for other actors such as UNDP to be engaged.

In the discussion that followed, some speakers were of the opinion that the refugee analogy was not very helpful to addressing the issue of when internal displacement ends. One reason given was that because UNHCR has used the cessation clauses only rarely, there exists little experience from the refugee world to draw upon. Some suggested that UNHCR has applied the cessation clauses rarely because the standards to meet, for example a “total and comprehensive transformation” of the society, are so high. Another speaker, however, argued that the fact that the cessation provisions of refugee law are rarely invoked actually is beneficial in terms of preserving the rights of refugees.

In addition, a number of participants were of the view that the refugee experience did not necessarily offer good models to emulate. It was pointed out that standards for refugee return as being “voluntary” and occurring in “safety and dignity” had been seriously undercut in the 1990s and often not observed in practice, for instance in the case of refugee return to Rwanda. It was suggested that because refugee status is declaratory rather than constitutive, the objective circumstances of refugees should be given greater weight than official determinations on the cessation of refugee status. In this connection, reference was made to the phenomenon of “self-repatriation”, compared with organized repatriation processes, which underscored the need to consider the multiplicity of reasons for which refugees return and what these tell us about when refugees themselves feel ready to return.

Several speakers expressed concern that premature refugee repatriation in the absence of conditions for a durable solution often leads to internal displacement. In addition to the example of Bosnia noted in the discussion paper, it was pointed out that this phenomenon currently was occurring in Afghanistan, where many refugees were being repatriated to the country only to become internally displaced, as they were unable to return to their homes. It was also noted that the increased use in refugee status determination procedures of the concept of “internal flight alternative” as a basis for denying asylum was essentially creating and legitimizing internal displacement. Because of this tendency for the cessation of refugee status to result in the creation of additional internal displacement, it was argued that there is a need for a comprehensive approach to the issue that takes into account both refugees and internally displaced persons and the relationship between their situations.

One speaker suggested that whereas the refugee analogy may not be very helpful for IDPs, the reverse is not true. Provisions in the Guiding Principles on Internal Displacement regarding the prevention of arbitrary displacement provide an important basis for advocating against refugee repatriation when conditions for durable return do not exist.

Notwithstanding concerns about how refugee repatriation had occurred in particular cases, several participants felt that the refugee analogy nonetheless was relevant to consider in approaching the issue of when internal displacement ends. From the point of view of refugee law, refugee cessation concerns not simply the possibility for a refugee to return to his or her country but the ability to regain access to national protection. It was suggested that a similar protection-focused approach would be useful to apply in the case of IDPs. In this connection, it was recommended that an agency with expertise in protection usefully could be designated to speak to the issue of when IDPs can fully regain national protection and no longer have specific needs. Specific reference was made to the Office of the UN High Commissioner for Human Rights (OHCHR). However, others questioned OHCHR's suitability for this role, given its limited engagement with issues of internal displacement to date. Moreover, another participant expressed the view that both for refugees and IDPs, reintegration is the key issue and that for this to occur, not only protection but also assistance is essential; consequently, UNDP also would have a key role to play.

The point also was made that in the case of IDPs, a local rather than countrywide approach to the issue of "changed circumstances" provisions for cessation would be more relevant. There could, for instance, occur a change of circumstances in the village or home area of internally displaced populations that would enable return, but would fall short of the "fundamental" change of circumstances throughout the entire country that the refugee analogy requires. Moreover, it was recalled that in the case of refugees, even when the cessation clauses are applied, these allow for exemptions, for instance for individuals whom, despite the occurrence of such changes in a country, would continue to be at risk. These exemptions are considered to be especially important when group determination procedures are used. While recognizing that group determination can be a useful tool in expediting the granting of refugee status in situations of mass influx, concern was expressed that it also can lead to the revocation of refugee status *en masse*, without sufficiently taking into account individual needs. Accordingly, it was suggested there is a need to take both objective criteria and the subjective wishes of refugees and IDPs into account; it was pointed out that this used to be done in the case of refugees.

While the meeting did not reach clear consensus as to whether the refugee experience is useful to consider when examining the issue of when internal displacement ends, on balance it was acknowledged that there was value in doing so. After all, the arguments made for not doing so mostly related to cautionary examples from the refugee experience rather than the irrelevance of refugee law standards on the issue, which participants generally regarded as useful to consider. Moreover, aside from the issue of whether the refugee experience is useful or not, the comments of a number of participants spoke to the importance of looking at both the refugee and IDP experience together. It was broadly recognized that there is a need for a comprehensive approach to the issue of when displacement ends, which encompasses both refugees and IDPs and takes into account the implications that a determination of cessation for one group can have on the situation of the other group.

## The IDP Experience

Attention then turned to what could be learned from the IDP experience, in particular from the Guiding Principles as well as practical experience to date. With respect to the Principles, it was noted that they offer important guidance on the issue of when internal displacement ends in three respects. First, from their reference, in the definition, to the causes and conditions creating IDPs, it can be inferred that the absence of these conditions would mean that a situation of internal displacement had ceased to exist. Second, it was pointed out that Guiding Principle 6 in spelling out the guarantees required for displacement to be lawful speaks to the need to ensure that consultation with IDPs must also be a part of solutions to situations of internal displacement. Third, in addition to indicating the solutions of return or resettlement, the Principles point to a number of necessary conditions for these solutions, including safety, compensation or restitution of property and reintegration assistance.

As to the practical experience, discussion began with the observation that in a number of recent cases, namely Bosnia and Abkhazia, international agreements had emphasized the right to return, whereas the Guiding Principles articulate obligations to facilitate return as well as resettlement. Another speaker noted that the case of Cyprus provides a longer-term example of the same phenomenon whereby political factors lead to return being considered the only benchmark as to when internal displacement ends. The Principles, however, recognize other solutions than strictly return, namely resettlement. They also suggest that a solution to internal displacement requires more than the act of return or resettlement by spelling out conditions for sustainable return or resettlement, in particular safety, dignity and property compensation or restitution.

Several participants noted that in the case of internally displaced persons, the meaning of return is not clearly defined or understood. Whereas the refugee regime speaks of repatriation, entailing return to one's country, for the internally displaced, the question arises as to where exactly to return? Must it be return to one's home or is it sufficient to return to one's village, town or even area of origin? In the case of Bosnia, international agreements specify the right of refugees and displaced persons to return to their "home". A number of participants considered this standard to be too high and in many cases unrealistic as homes may have been destroyed or been occupied by others -- often persons displaced themselves and unable to return. Moreover, several participants were uncomfortable with the emphasis on "return to one's home or area of origin" insofar as it ties displaced persons to political goals such as reversing "ethnic cleansing" which, however desirable, risks precluding exercise by the displaced of their right to the alternative solution of resettlement. In this connection, participants stressed the importance of consultation with the displaced and ensuring the voluntariness of return.

It was also considered important to de-link the issue of property compensation from that of return as well as IDP status. Under human rights law, it was pointed out, IDPs would be entitled to regain their property even if they chose not to return to their home but instead chose to resettle and reintegrate in their area of refuge or elsewhere. This right needs to be emphasized to counter the danger, present in a number of situations, of internally displaced persons being misinformed on this point and manipulated to refrain from choosing to integrate locally.

Several participants stressed that return should be regarded as entailing much more than the physical act of returning to one's home/town/country. Attention must also be paid to ensuring

that conditions exist for return (or resettlement) to be durable. In addition to safety and property, a number of other conditions for a durable solution to internal displacement were identified. Protection from landmines, also provided for in the Guiding Principles, would be important. Concurring that physical security is key, another speaker also stressed the importance of legal protection, noting that the two forms of protection -- physical and legal -- are closely inter-linked: people need to feel that there exists legal protection against possible security problems. In the absence of legal security, they may be unwilling to return. In this connection, several speakers suggested that a durable solution would entail restoration of the rights of IDPs on a par with the rest of the population and the absence of discrimination for having been displaced. The rights of internally displaced persons to equal access to public services and to political participation -- guarantees provided for in the Guiding Principles -- were cited as important benchmarks to consider in this regard.

While focusing on the restoration of the rights of IDPs, advocates of this approach underscored the importance of taking a comprehensive needs-based approach which avoids positive discrimination in favor of IDPs vis-à-vis the local population and instead ensures attention to the specific needs of IDPs. One speaker promoted a needs-based approach to populations in general, incorporating a special focus on IDPs not simply because they are IDPs but because they are particularly in need. It was noted that at a fairly early stage, some humanitarian assistance agencies seek a transition from IDP-focused programs to more integrated, community-wide approaches focusing on the most vulnerable.

As to the time frame for determining when displacement ends, the point was made that it is difficult to predict when a “durable solution” will occur and to pinpoint when such a solution actually is achieved. For IDPs, as with refugees, it was suggested that the solutions phase is a gradual process. For example, the program for temporary settlement currently underway in Angola may in the end turn out to be permanent. In the case of Bosnia, displacement reportedly was considered to end six months after the displaced returned home or after “changed circumstances” in the country, which removed the original cause of flight. Even then, however, some exceptions were allowed, thereby underscoring the need for a case-by-case approach. Many participants regarded the personal assessment of the displaced as key to the criterion of voluntariness.

### **Towards common criteria for deciding when internal displacement ends**

In keeping with the specific objective of the meeting, discussion then focused on what has been and should be the criteria for when internal displacement ends as well as the reasons why common criteria are needed. Launching the discussion of these issues, Christophe Beau of the Global IDP Project of the Norwegian Refugee Council (NRC), an organization which compiles statistics on IDPs in countries worldwide, spoke of the challenges it faces in undertaking this task. The lack of internationally accepted common criteria resulted in discrepancies, often huge, in figures for the number of IDPs in any given country. There was also the problem of a lack of information on certain internally displaced populations, especially in cases of protracted displacement when fewer organizations are present in a country to report on the situation. For example, in the case of Armenia, it was only with the mission of the Representative of the Secretary-General on Internally Displaced Persons to the country that light was shed on a situation of internal displacement that had been overlooked by the international community as

well as the government. Further to a recommendation of the Representative, the NRC was undertaking a mapping exercise to identify the location and needs of the internally displaced in this country. In some countries, however, a lack of humanitarian access impeded reliable assessments of the number and needs of IDPs. Another issue complicating the compilation of statistics was the question of whether the classification of “internally displaced person” can be passed on to children and, if so, for how many generations?

Bill Frelick of the U.S. Committee for Refugees (USCR) then was called on to share the experience of USCR, which is the one organization known to have established criteria on the issue of when internal displacement ends. He began by noting that the issue is less clear-cut for IDPs than refugees, in particular because whereas there is a registration process for refugees, this often does not exist for IDPs. Consequently, the issue is not only when to stop counting but whether IDPs ever were really counted as such at all. USCR focuses on IDPs who, if they crossed an international border, would become refugees. In its annual compilation of statistics, USCR stops counting IDPs if return is considered to be possible, regardless of whether the displaced actually return. If return is possible but people nonetheless do not return, they are considered to have made a decision not to return. Accordingly, Mr. Frelick suggested that it is important to consider what a lack of return indicates about the intentions of displaced persons. He pointed to the case of Lebanon, where the number of IDPs had decreased over the years as a result of having determined that many of those who had not returned did not actually intend to do so but instead had decided to resettle in their places of refuge. In Georgia and Azerbaijan, many of the internally displaced likewise may have no intention of returning to their areas of origin, were this to become possible, but are artificially and indefinitely maintained as IDPs, and impeded from resettling and integrating elsewhere in the country, for political reasons.

Citing the case of Guatemala, where USCR’s determination that internal displacement had ended has been contested on the basis that the internally displaced have been unable to obtain restitution or compensation of land and property lost as a result of displacement, he questioned whether property restitution or compensation should be a prerequisite for internal displacement to be considered to have ended. The Refugee Convention, he pointed out, does not require this. Moreover, he argued that there is need to be wary of the experience of the Palestinians, for whom return to or compensation for their homes has been identified as the only solution, but also is at the core of the long-standing political impasse impeding a resolution to their plight. He cautioned that this situation risks being repeated in other situations if the standard for when displacement ends is set too high.

One participant recommended that emphasis should be given to the right of refugees and displaced persons to return to their original homes. Doing so, it was argued, would avoid a situation as was presently occurring in Afghanistan, where refugees were being returned prematurely only to become internally displaced as they were unable to return home. However, reiterating a point made in an earlier session, another participant argued that the problem with emphasizing return “home” is that it binds displaced persons to political goals, such as reversing “ethnic cleansing”, which, however desirable, risks undercutting the criterion of voluntariness of return. In addition, and as had also been emphasized earlier, from the point of view of human rights law, it is possible and indeed important to de-link the issue of property compensation from that of return; internally displaced persons would be entitled to property compensation regardless of whether they choose to return.

Representatives of NRC's Global IDP Project, while noting that they relied heavily on the statistics compiled by USCR, advocated that rather than return, the benchmark should be implementation of a durable solution for the internally displaced. They explained that continuing to count IDPs until they have access to a durable solution is viewed as important to their organization's advocacy efforts for such durable solutions to be made available for the displaced. In their view, the possibility of return is simply not an adequate measure of when internal displacement ends and IDPs should continue to be considered as such even after they have returned, as long as they continue to have specific needs arising from the fact that they were displaced.

Some participants urged having the simplest set of criteria, with possibly just physical security as the sole criterion. Certainly, there was widespread agreement that safety should be a key, though not necessarily the only, criterion. At the same time, however, it was recognized that there is a need to define exactly what "safety" means. For instance, many felt that the reference to return in "safety and dignity", despite its increasing use, requires elaboration, thereby reinforcing the need for cessation criteria for IDPs. What, for instance, would be considered an acceptable risk? There was also the question of who determines and guarantees safety, with the suggestion that the international community facilitate and monitor conditions of safety. The meaning of return in "dignity" was considered to be even less clear. One participant even called into question the appropriateness of this criterion, arguing that people may return and reintegrate, thereby arriving at a solution even though "their trip was bad", i.e. did not comply with standards of dignity.

Beyond defining the conditions for return, other participants advocated a more comprehensive approach emphasizing integration rather than simply return. Many IDPs, especially those displaced from rural to urban areas, might not want to return but rather may remain indefinitely in their place of refuge. After a certain point, however, one must ask what separates the displaced from the rest of the population. Reference was made to criteria for assessing refugee integration and it was suggested that it would be useful to define what integration would mean for IDPs. It was proposed that one way would be to consider the needs and vulnerabilities specific to internally displaced persons and when these end.

In this connection, it was recalled that the Guiding Principles take a needs-based approach to identifying the specific needs and vulnerabilities that internally displaced persons may face as a result of their displacement. Accordingly, it was suggested that the key question is when do these specific needs and vulnerabilities cease to exist. Consideration of this question, it was urged, should not be limited to issues of physical security. The Guiding Principles recognize that the specific needs and vulnerabilities of IDPs are much broader, taking into account economic, social and cultural rights as well as civil and political rights, such as the right to vote, the right to property and to employment. Attention was drawn to Section III of the Guiding Principles entitled "Protection and Assistance *During* Displacement", which it was suggested provide a checklist of rights and guarantees against which to measure the viability of a solution suggesting an end to a situation of internal displacement.

Related to this approach, several participants advocated making human rights considerations central to the issue of when internal displacement ends. Specifically, internal displacement could be considered to have ended only once the rights of IDPs were restored on a level on par with the

rest of the population and IDPs were not discriminated against in the enjoyment of their rights on the grounds that they had been displaced.

As to the scope of criteria being discussed, the focus of the meeting was on internal displacement from refugee-like circumstances. Recalling a point made in the discussion paper, one participant noted that internal displacement caused by natural disasters or development projects may require separate criteria on the issue of when internal displacement ends and suggested that developing criteria covering these circumstances indeed may be more straightforward. Moreover, consideration of the issue in the context of displacement as a result of natural disasters and development nonetheless may be instructive. For instance, the cessation of a natural disaster may mean that a situation is once again safe. However, safety is not a sufficient condition for a solution; rather, it is only then that rehabilitation and reconstruction can begin. Reference also was made to a model used in development-induced displacement that recently had been updated to include the restoration of civil and political rights as an indicator of a situation having been effectively resolved.

The extent to which the views of individual IDPs should be taken into account was another point of discussion. Some participants felt it was essential to remove the hopes of IDPs from the equation, especially as these may be mere nostalgia rather than indicative of their actual intentions to return. Others, however, stressed that their voices must be heard. Consultation with the displaced, it was pointed out, is considered to be an important element of the voluntariness of return or resettlement.

Though consensus was not reached on the specific elements to be included, there was broad agreement as to the importance of developing criteria for determining when internal displacement ends. Certain concerns about the use of such criteria nonetheless were raised. It was urged that care should be taken to avoid any negative implications of having such criteria, for instance in “keeping on the list” people who may not want to continue to be penalized by this status, with reference being made to the examples of Georgia and Azerbaijan. Another concern was that the international community has only barely acknowledged the specific needs and vulnerabilities of IDPs and recently begun to meaningfully address these; now talk has turned to cessation, which could be misconstrued as a search for exit strategies. In this regard, one participant considered the reference to “operational demands” in OCHA’s request for guidance on the issue of when internal displacement ends to be particularly disconcerting in that it “sounds exactly like an exit strategy”. Responding to these concerns, another speaker suggested that there was value in having objective criteria as to when international concern and resources devoted to internal displacement should be diverted elsewhere, even if this means only shifting concern and resources into a development context and taking a community-wide approach. Certainly, there was shared concern that the decision as to when internal displacement ends should not be driven by donor interests. To safeguard against this, one participant called into question whether in fact it would be in the best interests of IDPs for the international community to have common criteria. For organizations and individuals engaged in advocacy, their determination of when displacement ends should not be influenced by operational demands but rather be guided, above all, by the interests of the internally displaced; this may require that they maintain more rigid criteria grounded in human rights guarantees. Generally, however, participants were of the view that the development of criteria through a broad-based consultative process was the best way to

ensure that protection of the rights of IDPs was central to any decision as to when internal displacement ends.

### **Concluding remarks**

In providing concluding remarks to the meeting, Dr. Susan Martin began by thanking participants for contributing to such a thought-provoking discussion. Though the meeting had not come up with a definitive answer to the question of when displacement ends, the discussion had served to identify a number of issues needing to be taken into account and thereby had greatly assisted in furthering thinking on this issue.

Overall, Dr. Martin observed that there was consensus that the flexibility provided by a case-by-case approach was useful but, at the same time, it would be important to apply this in conjunction with an established set of criteria. As to what these criteria should be, three different approaches to the issue could be distilled from the discussion. One was to focus on the causes of displacement and, drawing on the refugee analogy, consider the existence of “changed circumstances” to signal the end of displacement. A second approach would be oriented towards solutions, specifically return or resettlement (either in the country of origin or in another country). A third approach would be needs-based, focused on the continued existence of IDP-specific needs and vulnerabilities different from the rest of the population. It was pointed out that these three approaches are not mutually exclusive but should be considered as overlapping. Moreover, the discussion had also highlighted the need for a comprehensive approach, taking into account not only IDPs but also refugees as well as war-affected non-displaced populations, as the approach to the plight of one group can impact greatly on the situation of another.

Aside from the specific content of criteria for determining when internal displacement ends, an important related question, also requiring closer examination, concerns who should make this decision and what weight should be given to the views and intentions of the displaced. While acknowledging that operational agencies require guidance on the issue of when internal displacement ends, Dr. Martin noted that the meeting also highlighted the need to safeguard against the discussion of when internal displacement ends being driven by operational demands and donor interests. There was broad consensus that protection of the rights and best interests of the internally displaced must remain central to the decisionmaking process.

***Rapporteur: Erin Mooney***

## AGENDA

- 9:00 Welcome and Introductions – Francis M. Deng, Representative of the Secretary-General on Internally Displaced Persons
- 9:15 Presentation of Discussion Paper  
Erin Mooney, Brookings-CUNY Project on Internal Displacement
- 9:30 What is instructive from the refugee experience?
- legal side
  - practical side
- 10:00 What is instructive from the IDP experience?
- what can we learn from the Guiding Principles on Internal Displacement?
  - practical side - are there operational models?
- 10:45 Criteria for deciding when internal displacement ends - what has been and should be the criteria?
- for the purpose of statistics
  - for the purpose of ending assistance or making the transition to development aid
  - for the purpose of ending any international protection that has been offered
- 12:45 Concluding comments
- 1:00 Luncheon

## LIST OF PARTICIPANTS

Richard Barton	Princeton, former UNHCR Deputy High Commissioner
Christophe Beau	Norwegian Refugee Council, Global IDP Project
Urs Boegli	Head of Regional Delegation, North America & Canada, International Committee of the Red Cross
Rafael Bonoan	Doctoral Candidate, MIT
Joel Charny	Vice-President for Policy, Refugees International
Roberta Cohen	Co-Director, Brookings-CUNY Project on Internal Displacement
Francis Deng	Representative of the Secretary-General on Internally Displaced Persons
Bill Frelick	Director, US Committee for Refugees
Arthur Helton	Senior Fellow, Council on Foreign Relations
Lisa Jones	Humanitarian Affairs Officer, Policy Development & Studies Branch, OCHA
Matthew Karanian	Institute for the Study of International Migration, Georgetown University
Werner Kiene	World Food Programme, Washington, DC
Susan Martin	Director, Institute for the Study of International Migration, Georgetown University
Erin Mooney	Deputy Director, Brookings-CUNY Project on Internal Displacement
Geeta Narayan	Office of Emergency Programmes, UNICEF
Rachel Reilly	Refugee Policy Director, Human Rights Watch
W. Courtland Robinson	Center for Refugee & Disaster Studies, Johns Hopkins School of Public Health
Jessica Schultz	Ford Foundation

Frank Sieverts	International Committee of the Red Cross, Washington
Barry Stein	Professor, Department of Political Science, Michigan State University
Frances Sullivan	Regional Representative Washington, DC, International Organization for Migration
Shigero Suzuki	IDP Unit Focal Point, OCHA New York
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Monette Zard	Migration Policy Institute
Greta Zeender	Norwegian Refugee Council, Global IDP Project

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*Centre for Humanitarian Dialogue, Geneva*

### **Introduction**

This meeting was the second in a series of consultations exploring the issue of when displacement ends. Chaired by Dr. Francis M. Deng, Representative of the United Nations Secretary-General on Internally Displaced Persons, participants included representatives from UN agencies, international organizations and NGOs as well as experts from universities and research institutions (see List of Participants). After an overview of the issue, the question of when displacement ends was explored through a number of case studies (see Agenda). Different options for criteria were then discussed. The new UN High Commissioner for Human Rights, Sergio Vieira de Mello, joined the meeting as luncheon speaker on his Office's role with internal displacement (see Appendix).

### **Overview of the Issue**

Erin Mooney introduced the issue by explaining that there were a number of reasons why it was important to answer the question of when internal displacement ends. To begin with, decisions that internal displacement has ended inevitably lead to the termination of programs addressing IDPs' particular needs; therefore, it was critical to understand the basis on which such decisions were made and the extent to which they matched realities on the ground. Operational agencies, NGOs, donors and other governments also required accurate data on the number of IDPs in order to effectively formulate programs, policies and budgets. In addition, it was important to determine when national and international resources should shift from the needs and vulnerabilities of IDPs to community-wide rehabilitation and development. Furthermore, organizations and researchers engaged in compiling statistics needed to know when to stop counting. Most importantly, IDPs were entitled to know when the benefits as well as the restrictions and risks that their designation as an "IDP" entailed would cease.

Answering the question, therefore, was not simply an academic or theoretical exercise but could have a tremendous impact on the lives of IDPs. Mooney pointed out that, currently, decisions on when internal displacement ended were made, if at all, on an *ad hoc* and arbitrary basis, whether by governments, international organizations or donors. Moreover, the methodologies used and, consequently, the conclusions reached differed dramatically among actors, thereby impeding coordinated responses.

The issue of when displacement ends could be looked at through three different lenses. The first lens was the *Guiding Principles on Internal Displacement*, which specify return or resettlement as solutions to displacement. Because resettlement could entail IDPs either settling and

integrating locally, in the area to which they were displaced, or resettling in another part of the country, there effectively exist three possible in-country solutions to internal displacement: return, local integration or resettlement elsewhere. The Principles further stipulate a number of conditions that these solutions must satisfy: that they be voluntary; occur in safety and dignity; non-discrimination against IDPs in areas of return or resettlement; and that assistance be provided for IDPs' recovery of or compensation for property and possessions.

The second lens was the refugee experience. While refugee law was concerned with a specific legal status, making direct analogies difficult, the experience with refugee status cessation nonetheless could offer important guidance. At the same time, the cessation of refugee status and the end of displacement should not be linked, as the relationship between the two was not necessarily automatic.

The third lens through which to examine the issue was through case studies. The cases examined had confirmed that there exists no systematic approach to determining when displacement ends. The deciding factors vary and include, for instance: constraints on resources; an interest in deflecting attention from the country by deeming the displacement situation "resolved"; or emphasis, typically for political reasons, on one particular solution, most often return, to the exclusion of local integration or resettlement. In many cases, the approaches used violated the rights of the displaced.

The 2002 Washington meeting had agreed on the importance of developing criteria for when internal displacement ends, in particular to safeguard against decisions being made arbitrarily, including being driven by government or donor pressure. As to the content of the criteria, three different approaches had emerged. One would be to focus on the causes of internal displacement and, borrowing from the refugee analogy, to evaluate the existence of "changed circumstances" from those that had compelled the initial flight. Cause-based criteria could include the end of a conflict or a change in government such that a well-founded fear of persecution no longer existed. Another possible approach would emphasize solutions, or the ability of IDPs either to return or resettle voluntarily and in conditions of "safety and dignity" so as to ensure the durability and effectiveness of the solution chosen. Still another approach would look to when the particular needs of IDPs, in terms of protection, assistance and reintegration, ceased to exist; when IDPs no longer required special attention and assistance distinct from other populations in need or at risk, attention and resources could shift to more community-wide transitional and development assistance. Following these different approaches, three possible sets of criteria -- cause-based, solutions-based, and needs-based -- for determining when displacement ends had been developed.

Participants concurred that the issue of when displacement ends was important to address, not only for the UN but also for governments in countries experiencing internal displacement as well as for donor countries responding to these crises. In some countries, it was pointed out, assistance and attention to IDPs ceased not because the particular needs of IDPs had been met, but because money had run out. An analytical framework was needed to ensure that such decisions were not simply resource-driven. Rather, it was a question of determining when resources and attention should shift from a special focus on IDPs towards more holistic approaches. Most importantly, answering the question of when internal displacement ends was critical for IDPs themselves. Continuing to be an IDP, one participant suggested, in and of itself

amounted to a violation of rights. There was consensus that displacement should be brought to an end for humanitarian reasons, in particular ending the disadvantages IDPs suffered as well as ensuring that they would not be held hostage to their situation, nor deprived of special assistance prematurely, by an approach driven by the availability of resources or political imperatives. Guidelines, participants agreed, would be valuable.

## **Case Studies**

The issue of when internal displacement ends then was examined through the lens of case studies, grouped according to three different types of IDP situations: protracted crises; frozen conflicts; and post-conflict situations.

### *Protracted Crises*

Protracted crises of internal displacement were those that had persisted unresolved for several years and which typically also entailed new and ongoing displacement. Specifically, the meeting considered the cases of Burundi, Colombia and Sierra Leone.

The case of Burundi underscored that a formal end to a conflict did not automatically mean an end to internal displacement. Notwithstanding the peace accords of 2000, a fundamental change of circumstances had not taken place in Burundi: there was no effective cease-fire, and insecurity and fighting continued in several provinces, with the result that internal displacement actually had increased. Moreover, when international pressure successfully led to the closure that same year of many of the *regroupement* camps (into which several hundred thousand civilians, mainly Hutus, had been relocated), neither the government nor the international community had made the necessary preparations for returns. Indeed, international agencies had scant information on the conditions, even the location, of most of the formerly “regrouped” population and, due to conditions of insecurity, little access to those whose location was in fact known. Many IDPs consequently were deprived of international protection and assistance, even though significant numbers remained displaced, while those who did return home did not receive the reintegration support they required. The Burundi case, therefore, also revealed the importance of establishing mechanisms for monitoring the conditions of displaced persons after they left a camp situation, so as to ensure they do not simply become “out of sight, out of mind”.

Colombia was another case where the end of displacement, though officially prescribed, was very difficult, under current circumstances, to envisage. According to Colombian law, a person is considered “internally displaced” for a period of three months, with a possible three-month extension, provided that s/he has formally registered (which in fact many IDPs are unable to do). Once the officially recognized duration of displacement ended, so too did the entitlement to government assistance (which it was reported less than half of registered IDPs actually receive). Although humanitarian needs for basic assistance continued to exist, including at a critical level, assistance was terminated. Deprived of socio-economic support from either the government or the international community, most of Colombia’s IDPs became part of the urban poor and effectively disappeared from attention. Few were able to return to their areas of origin. Those who managed to do so remained caught up in the midst of armed conflict and subject to further displacement. For IDPs who relocated to other parts of the country, the scope of the conflict often interfered with a lasting and effective solution. Consequently, an increasing number of

IDPs have been moving across the border to seek asylum in Panama, Venezuela and Ecuador. However, restrictions on asylum have meant that this provides a solution to few. Meanwhile, the cause of displacement, namely the conflict, has continued and the real number of IDPs has continued to increase. The case of Colombia demonstrated the difficulty of envisaging an end to displacement in situations of protracted conflict. It also underlined that national responsibility for IDPs entails not only providing protection and assistance *during* displacement, but also facilitating the creation of conditions for durable solutions for IDPs and addressing the root causes of displacement.

The case of Sierra Leone provided important insights into the limitations of applying simply cause-based criteria. After more than a decade of devastating civil war, in 2001 the government, with the assistance of the international community, adopted a Resettlement Strategy for the large-scale return of officially registered IDPs (as well as refugees and ex-combatants) and the phasing out of IDP camps. The policy specified the need for the areas of return to be “sufficiently safe to allow for the return of displaced people in safety and dignity”. By the autumn of 2002, after some 220,000 registered IDPs had been resettled under this program and many more had returned home spontaneously, officially at least, there were no longer any IDPs in the country. It was pointed out, however, that the return and resettlement process had been problematic in several respects, which called into question whether displacement really had ended. For one, only IDPs who had been officially registered for assistance in the camps were entitled to receive the resettlement assistance provided for under the government Resettlement Strategy, depriving many unrecognized IDPs of assistance to return home. Second, many IDPs did not wish to return, owing to a variety of reasons, including fears of insecurity, the lack of infrastructure in areas of return, and better economic opportunities in the areas where they had sought refuge. Although no longer officially considered IDPs, they might still be in need and therefore should not be precluded from reintegration assistance. A third and related concern was that in some cases, areas of return were prematurely or inaccurately declared “safe for resettlement”, with the result that some IDPs were resettled in unsafe areas, for instance, in areas bordering Liberia which subsequently experienced cross-border raids and abductions of civilians as well as further displacement. In addition, IDPs had not necessarily had access to adequate information about conditions in areas of return. Inadequate resettlement packages and lack of shelter and basic services in return areas had led many “resettled” IDPs to drift back to urban areas. Overall, the resettlement program had been heavily criticized, for instance by Medecins Sans Frontieres, on the grounds that it was rushed, poorly planned and “more closely resembled eviction than resettlement”.

### *Frozen Conflicts*

The case of Georgia illustrated the challenges of bringing an end to internal displacement in situations of so-called “frozen conflicts”, characterized by an extended absence of active hostilities but where an end to the conflict nonetheless remained elusive. After upwards of a decade of being displaced, IDPs from the breakaway region of Abkhazia were still unable to return owing to continued insecurity in the area and the lack of a political settlement to the conflict. At the same time, the government had resisted providing support for the integration of IDPs into their host communities for fear of diminishing pressure for pursuing a resolution to the conflict. As a result, IDPs were effectively being held politically hostage to the goal of return. Indeed, IDPs feared that if they were to integrate in areas of displacement, even temporarily, they

would lose their right to return to Abkhazia, as surveys suggest the majority of IDPs would prefer to do. Donors, however, have been eager to shift from emergency relief to more development-oriented programs in order to avoid creating long-term dependency among IDPs. In recent years, the government has taken certain steps in this direction with the adoption of a “New Approach” which has sought to improve living conditions and promote greater self-reliance among IDPs. However, the basic thrust remains one of emphasizing the right to return as the only means of bringing an end to displacement.

In the discussion, it was noted that a similar dynamic also was at play in Azerbaijan. One participant suggested that if the government did not facilitate or allow the international community to assist in facilitating local resettlement and reintegration, the international community should be prepared to take a strong stand and cease to consider such IDPs entitled to international protection and assistance. It was pointed out that in some cases, such an approach had worked to induce governments to assume greater responsibility for improving the conditions of the displaced, all the while maintaining the emphasis on the right to return. Reference also was made to the case of Cyprus, where decades after having been displaced, IDPs had more or less permanently integrated into local communities but were still counted as IDPs for political purposes, i.e., the absence of a settlement to the conflict. These situations of frozen conflict raised important questions about the appropriateness of focusing strictly on the causes of displacement as a determinant of when displacement ends.

#### *Post-Conflict*

An examination of several post-conflict situations -- the Balkans, Angola, Rwanda and Sri Lanka -- underscored that an end to conflict does not necessarily bring displacement effectively to an end.

The experience in the Balkans suggested that the question of when displacement ends depended very much on political factors beyond simply an end to the hostilities. It was pointed out that in cases such as Kosovo and Bosnia-Herzegovina, addressing the complex constitutional issues stemming from the origins of the conflicts would be key to enabling durable solutions for the displaced. While in Kosovo, security was the main reason why IDPs were not returning and thus should be a primary concern, constitutional uncertainties were an additional and contributing factor, and one that was heavily politicized and closely linked to the question of return. As in Georgia, there existed strong political preferences for the solution of return, rather than resettlement. However, it was argued that when adequate conditions for return did not exist, IDPs should not be kept in limbo; the conditions should be created -- legal, political and socio-economic -- to enable them to integrate locally, if only temporarily, without compromising the option of return. A political commitment for such an approach with the adoption of a national action plan for facilitating both return and resettlement was important. Indeed, it was suggested that the criteria for when displacement ends should be the existence of key enabling conditions such as safety, resolution of property issues and socio-economic conditions so that IDPs truly have options to pursue whichever solution -- return, local integration or resettlement -- they prefer. Moreover, because these conditions, in particular the socio-economic ones, would only come about when financial institutions were involved, it was suggested that these actors should be more actively engaged in the question of when displacement ends.

The case of Angola provided an example not only of the value of developing standards for IDP return and resettlement but also of the importance of ensuring that these standards are monitored and observed. Even before the peace agreement had been signed, Norms for the Resettlement of Displaced Populations, based on the Guiding Principles, had been elaborated which set out minimum standards for resettlement including safety, access to land, education, food, potable water, shelter, clothing, medical services and sanitation. Following the cessation of hostilities in April 2002, the government announced the closure of IDP camps and transit centers and said that the return of the displaced to their areas of origin should be achieved by the end of the year. However, only ten percent of IDPs who returned to their areas of origin had done so as part of the resettlement plan formulated in accordance with the Norms; the overwhelming majority of IDPs had returned in the absence of security guarantees and without reintegration assistance. Half of the sites to which IDPs returned were insecure and in many return areas landmines were rampant. Moreover, it was reported that in many cases, IDPs had been encouraged by the government to return on the basis of false information on the conditions in areas of return.

The experience of Angola underscored that an end to displacement should not be driven by a government's timeframe, but rather when the necessary conditions for return and resettlement existed. It also made clear that it is essential to put in place mechanisms for monitoring and supporting the creation of these conditions. To this end, OCHA was working with the government of Angola to train administrators at the municipal level on the minimum standards for resettlement set out in the Norms. It was suggested that it would also be valuable for UN monitors or human rights officers to be deployed in areas of return to monitor and, together with the government, help to address protection concerns.

In Rwanda, after the government had ordered the dismantling of camps in the Northwest and the relocation of the displaced into new villages in 1998, there were markedly differing opinions among UN officials and agencies as well as international NGOs as to whether the "villagization" process marked the end of displacement. The position of OCHA initially was that all those IDPs who had relocated to housing sites in the villages had permanently resettled and therefore should no longer be considered IDPs. However, after determining that a number of the relocation sites lacked basic infrastructure and adequate housing, OCHA began to use the term "newly relocated" rather than "resettled" to describe these people. For UNHCR, IDPs in Rwanda ceased to be "people of concern" to the agency at some point within a year after their resettlement. The IASC's Special Coordinator on Internal Displacement, however, subsequently questioned these approaches, especially as resettlement had not necessarily been voluntary and most of the IDPs who had relocated to the villages continued to suffer basic humanitarian needs. Moreover, he pointed out that it was difficult to reconcile the position of UN agencies in Rwanda with the approach taken in Burundi, where people continued to be considered IDPs even though they had been resettled for several years in what were considered to be acceptable conditions. The U.S. Committee for Refugees (USCR), meanwhile, continued to count as IDPs those among the resettled population who lacked essentials such as proper shelter and land allocation for farming opportunities; later, due to difficulties in identifying and quantifying who was an IDP, USCR counted no Rwandans as internally displaced.

Comparing these various approaches, the one criterion that all actors viewed as essential for ending displacement was permanent resettlement. However, there was little or no consensus on other issues. For example, concerns raised by some organizations about the voluntary nature of

the process did not appear to be given sufficient weight in decisions about whether to continue to consider relocated populations as IDPs. Some actors did take into account factors such as the fulfillment of basic humanitarian needs and access to land, but differed in their conclusions as to whether these criteria had been met. Outstanding basic humanitarian needs, it was explained, was the key reason why NRC's Global IDP Project continued to maintain a country report on Rwanda although it did not have a specific figure for the IDP population.

The case of Rwanda therefore illustrated the significantly different approaches of agencies and organizations to the issue of when internal displacement ends. Indeed, it had been pivotal in highlighting to the UN the need for clarity and a common approach on this issue. It also demonstrated the strong role that governments could play in deciding when internal displacement ends and how international agencies might simply echo the government's position.

Though the case of Sri Lanka was not yet formally post-conflict, it was suggested that it was timely not only for IDPs, but also for national reconciliation and as an important peace dividend, to begin to consider moving away from a situation of displacement. At the same time, it was emphasized that in the rush towards peace, care should be taken to ensure that "rights are not bargained away." It was therefore essential that the process of ending displacement should occur in compliance with internationally recognized and measurable standards, especially in terms of protection and development. As regards protection, it was suggested that the change of circumstances required in order to apply cause-based criteria should be the creation of an environment where not only the government but also non-state actors respect international standards of human rights and humanitarian law. Protection concerns, it was pointed out, would especially be a challenge for returning minorities.

A needs-based approach also was applicable to the Sri Lankan case. In fact, a national framework for relief, rehabilitation and reconciliation as well as a task force to examine humanitarian needs and solutions had been established. It was critical for these initiatives to be guided by international humanitarian law, human rights law, the Guiding Principles, and the Sphere Minimum Standards for humanitarian assistance. Standards and guidelines for returnees had been developed in Sri Lanka, which sought to identify and remove possible obstacles to return, in particular security concerns such as landmines, road conditions for access to the population, housing conditions, and access to public services and infrastructure in areas of return. It was suggested that what was really at issue in discussing when displacement ends was the need to recreate viable livelihoods for the displaced. IDPs accordingly needed to be supported in making the transition from relief to development, with this process being linked to the development of the country as a whole. To bring together these protection and development approaches, IDPs would need to be able to recover their full entitlements and rights as well as regain means to livelihood.

## UNHCR's Perspective

Given the organization's expertise in situations of displacement, in particular its guidelines for the cessation of refugee status and involvement in IDP situations, UNHCR was invited to comment on its approach to when internal displacement ends. UNHCR's representative began by noting that for IDPs, unlike refugees, there was legally no need to declare an "end to displacement". Applying by analogy to IDPs the cessation clause in refugee law therefore was not necessary and would be unhelpful and undermine IDPs' rights. Nonetheless, in UNHCR's view it was critically important to consider and forge consensus on what constitutes a solution for IDPs. In this connection, agreed criteria on when displacement ends would be valuable. While UNHCR, for its own part, did not have a defined approach to the issue of when displacement ends, generally speaking it would consider internal displacement to end once IDPs were able to freely choose and attain a sustainable solution.

Solutions to displacement, UNHCR emphasized, must be voluntary. As citizens, IDPs were entitled to freedom of movement and choice of residence. Forced displacement, however, constrained the exercise of these freedoms. It was only when the factors inducing forced displacement were removed and conditions for safe and dignified return were created that IDPs would truly be able to make free choices as to where to live: whether to return, to stay where they are, or to move elsewhere. To have choices also meant that exercising any of these options would not come at the expense of the enjoyment of other rights.

Having the choice to return, integrate locally, or relocate, however, was only the first step towards solutions. In the case of refugees, UNHCR had a legitimate concern for the *consequences* of return and for promoting the sustainability of return in conditions of safety, dignity and equality. Sustainable return required the assurance both of the returnees' physical and material security and a constructive relationship among returnees, the state and civil society. More concretely, this meant that returning refugees should be reintegrated into the local community, able to enjoy a normal livelihood in safety and dignity, and have equal access to protection from national authorities. These considerations would also be relevant to IDPs.

UNHCR suggested that a sustainable solution for IDPs should be measured against agreed criteria and indicators drawn from principles of human rights and humanitarian law, in particular those incorporated in the Guiding Principles on Internal Displacement, and on the basis of both a general assessment of the situation in the country as well as specific considerations regarding the situation of the displaced population. The general assessment should take into account factors such as the removal of the root causes of displacement, for instance the dismantling of oppressive forces in the context of a peace agreement; political developments including the holding of democratic elections; general respect for human rights; and socio-economic conditions. In short, what was required was a well functioning state, by which was meant a state with the capability and will to protect its citizens' safety and welfare. The specific assessment should take into account the profile of the displaced population, the conditions in areas of return or resettlement, including the prospects of physical safety, access to land, income-generating opportunities and access to basic services and basic living standards.

While noting that there were no fixed indicators as to what "reintegration" should entail, UNHCR suggested that its realization could best be measured by comparing IDPs' circumstances

with those of members of the local community and in particular by considering three types of integration -- legal, social and economic. Legal elements of integration would include land and property rights; freedom of movement and protection against forcible return; non-discrimination; and the ability to exercise citizenship rights. Social integration would include the right to participate fully and equally in public affairs at all levels as well as equal access to public services, including welfare, public housing and education. The economic dimension of integration would require equality of access to employment and income-generating opportunities. In all three areas of reintegration, putting in place these conditions for displaced persons would be a gradual process that would likely progress in parallel with general developments in a country such as national reconciliation processes, improvements in human rights protection, and socio-economic development.

In protracted conflict situations, it was UNHCR's view that the individual's hope to return to his/her area of origin should be balanced not only with the prospects for safe return but with the conditions in areas where IDPs were currently located. If conditions of safe return did not yet exist and could not be envisaged for the foreseeable future, but IDPs were considered to have "an acceptable level of integration" in their current location, this could be considered a durable solution and a basis for phasing out IDP-specific assistance. An IDP's right to return, whenever conditions allowed, would remain untrammelled, based on the right to freedom of movement.

Furthermore, UNHCR emphasized that the application of the cessation clause for refugees would not necessarily imply that a solution had been reached for IDPs or that protection and assistance for them should be discontinued. The cessation of refugee status, after all, simply implied that refugees from a particular country were no longer in need of international protection outside his or her country; however, once they returned, they might still require assistance for their reintegration to ensure its sustainability. IDPs' needs might be different and therefore should be separately assessed. Even with a determination that internal displacement had ended, instead of prompting a phasing out of assistance, this should lead, rather, to a shifting of resources from displacement camps or sites to places of return or relocation, where support would still be required. For determining when internal displacement ends, UNHCR would favor a mixed solutions-focused and needs-based approach for ensuring durable solutions together with a protection, or rights-based, approach.

### **Discussion of Possible Criteria**

Susan Martin introduced the Options Paper, which, building on the Washington consultations, set out three possible sets of criteria for determining when the international community should no longer consider IDPs as such.

(i) Cause-based criteria: The first set of criteria was focused on the causes of internal displacement and, drawing on the refugee analogy, considered the existence of "changed circumstances" to signal the end of internal displacement. Because refugee law was concerned with people who were unable to enjoy the protection of their governments, the availability of national protection was the key determinant of when the international protection that refugee law affords was no longer necessary. For IDPs, the availability of national protection could likewise determine when international concern would end. More specific criteria could be constructed to address the different reasons for displacement outlined in the Guiding Principles. In the case of

conflict-induced displacement, obvious indicators would be the end of hostilities and the restoration of peace. The case studies, however, had underscored that the signing of a peace agreement and a formal end to conflict did not necessarily signify the establishment of conditions of safety and the ability of IDPs to secure national protection. Cause-based indicators therefore should evidence a sufficient change of circumstance in a situation such that the safety and security of the population could be assured. They should include, for instance, indicators measuring political changes within the country, for example, the holding of free and fair elections, restoration of the rule of law, and the protection of minority rights. Just how extensive such changes would need to be in order for the causes of displacement to be considered as addressed was an open question.

Moreover, in situations, such as Georgia or Kosovo, where displacement had occurred as a result of fundamental and seemingly intractable differences in the country regarding its borders or constitution, additional indicators other than strictly cause-based criteria might be needed. This would seem particularly important in the case of frozen conflicts, where although a cease-fire had been in place for several years, a peace agreement remained elusive. Furthermore, cause-based criteria might not be as useful in determining when displacement ends for persons displaced because of development projects or other causes which are irreversible, such that return of the affected population would be impossible.

(ii) Solutions-based criteria: A second set of criteria focused on solutions to displacement, whether return or resettlement in another community (either in the country of origin or in another country). The feasibility of these solutions, especially that of resettlement, did not necessarily depend upon a change in the circumstances that caused the displacement. Key guiding principles should be the voluntary nature of return or resettlement as well as its occurrence in safety and dignity. The case studies and the discussions had underlined the need for a mechanism to monitor compliance with these standards. Moreover, to be durable, a solution would require the reintegration of IDPs into the community of return or resettlement, as evidenced by non-discrimination and their ability to fully participate in the political, social and economic life of the community. Solutions might also entail restitution of or compensation for property or land lost as a result of displacement.

(iii) Needs-based criteria: A third set of criteria was concerned with the continuation of displacement-related needs and vulnerabilities. When IDPs ceased to have specific protection, assistance or reintegration needs related to their displacement, they would no longer require international assistance and protection. This would be true even though they might not be permanently resettled and might continue to have needs, whether emanating from poverty in their country or other factors. In applying needs-based criteria to IDPs, it would be necessary to ascertain whether IDPs were able to access national assistance and protection, were not discriminated against in the exercise of their rights, and did not have unmet needs arising from their displacement. In the course of the discussions, particular emphasis was placed upon the importance to IDPs of the restoration of their livelihoods, adequate shelter, and their ability to enjoy equal access to public services such as education and health care.

These three sets of possible criteria, Martin explained, need not be mutually exclusive and indeed include overlapping elements, which might suggest the need for an integrated approach. What was required was to consider more closely the appropriateness of each of the approaches and to

think through more specifically the indicators that should be included in a “checklist” as to when internal displacement ends.

As to the overall thrust of the criteria, some participants pointed out that while it would be important to set high standards, these should not be so high that operational agencies could not implement them. It also was suggested that if the criteria were too encompassing, not only donors and financial institutions but also international agencies would shy away from the issue. Others, however, argued that precisely because the end results would be a determination that there was no longer an international interest and obligation to assist and protect IDPs, the standards should be high and not necessarily easy to achieve. If the threshold were too low, IDPs would be endangered. In the interests of IDPs, the consensus was that the bar should be set as high as possible.

Certain criteria for the end of displacement, participants agreed, already could be found in the Guiding Principles. Solutions-based criteria of IDPs re-establishing themselves in a particular location, either through return, local integration or resettlement, were considered essential. Another criterion was that these processes should be voluntary. Still another was that they should occur in safety. A fourth criterion was that of dignity, for which the principle of non-discrimination was crucial, including in terms of ensuring IDPs’ access to education, social security, health care, and income-generating opportunities -- all elements considered necessary for a solution to be durable.

The cause-based approach was considered to make an important contribution in particular in providing a starting point that an IDP would no longer be of concern to the international community once s/he was able to obtain the protection and assistance of the national government. If s/he was able to access national protection but nonetheless continued to move around, s/he should be considered an internal migrant, but not an IDP. In cases of displacement as a result of conflict, it was suggested that determining when displacement ends appeared relatively straightforward: an end to conflict should make protection by the national authority possible, as evidenced by the rule of law, including a functioning judiciary and government, though the putting into place of these conditions was not automatic and should be closely monitored and supported.

Much more complicated were situations of frozen conflicts such as Georgia and Azerbaijan. It might be that cause-based criteria, which would require an end to the conflict, set too high a standard in such situations where, by definition, there was no end to the conflict in sight. Indeed, these cases demonstrated the danger of using strictly cause-based criteria. Because the government had tied the fate of the displaced so closely to resolution of the conflict and the specific solution of return, even after more than a decade, IDPs have been impeded from taking action to promote their self-reliance and economic integration in their places of residence. Under such circumstances, many participants were of the view that it might be in the best interests of IDPs to do away with cause-based criteria, which could effectively hold IDPs as political hostages and freeze them in a situation of internal displacement and dependency. There was a strong humanitarian imperative to bring IDPs out of such a situation. To this end, it was suggested that a combination of needs-based criteria with a solutions-based approach, which allowed for resettlement as well as return, might be most appropriate.

Solutions-based criteria, which ensured an end to the factual situation of displacement, either through return or resettlement (locally or elsewhere in the country), were widely regarded as critically important. Indeed, as specified in the Guiding Principles, the state has a *responsibility* to create conditions to enable IDPs to pursue these solutions voluntarily and in safety and dignity. There was strong consensus among participants, however, that it would not be sufficient to say that displacement had ended simply because return or resettlement had taken place. In the absence of safety, basic services, infrastructure and income-generating opportunities, return or resettlement would only be temporary and therefore not a true solution. Language regarding sustainability therefore should be built into solutions-based criteria and spelled out in some detail. To be durable, it was suggested that return and resettlement should be closely linked to development. In Angola, the norms for return and resettlement set forth the elements required for a durable solution, such as safety, access to land, education, food, potable water, housing, clothing, medical services and sanitation. These core elements should be incorporated into general criteria for when displacement ends.

One concern with a solutions-based approach was that there has tended to be little information and analysis as to what happens to people once they return or resettle. Some of the case studies had underscored the need for monitoring, especially of conditions of physical safety, upon return or resettlement. Participants added that it was also important to monitor IDPs' assistance and reintegration needs. The experience of displacement, especially in protracted situations and prolonged dependency, might create long-term vulnerability such that IDPs, even after return or resettlement and initial reintegration, might experience particular challenges over the long term that would need to inform deliberations about when displacement ends. Closer attention also needed to be paid to the situation of urban displaced persons, who typically disappeared from statistics after migrating to the cities and merging in among the urban poor, but did not necessarily intend to resettle there permanently and continued to experience unique needs and vulnerabilities stemming from their displacement.

Accordingly, in addition to the emphasis on solutions, participants expressed strong interest in including needs-based criteria, according to which displacement would be considered to end when the particular needs of IDPs stemming from their displacement, and requiring special support, could be said to have ceased. Thereafter, IDPs might still have needs, but these would be of a more general nature, similar to those experienced by other members of the community, including persons who had not been displaced. The concept of "needs" should be clearly spelled out and include protection as well as assistance and rights as well as vulnerabilities. The Guiding Principles, it was pointed out, provided a useful indication of some of the most important particular assistance, protection and reintegration needs and vulnerabilities experienced by the internally displaced.

Some participants suggested that in using needs-based criteria, it would also be important to consider different degrees of displacement, in terms of the duration of displacement, and the relative level of needs and vulnerability. For example, a distinction could be made between persons who had been displaced for a period of a few months or less and those who had been displaced for several years, whom it was suggested might be less vulnerable. In the DRC, for instance, some humanitarian agencies had found that people who had been displaced for ten years were being considered the same as people who had just been displaced even though the "older" IDPs might be working and therefore in a significantly different situation from the newly

displaced. A counter-example, however, had been noted during discussion of the case of Colombia, where the opposite was true: the long-term IDPs who, officially, were no longer considered IDPs or eligible for government assistance, were found to be in an even worse situation than the newly displaced. Elsewhere, there were also cases of IDPs fleeing their homes repeatedly, on a nightly basis or whenever fighting flared up in the region, but returning to their homes and fields during the day. Rather than assuming that the level of IDPs' needs were determined by the duration of displacement, needs-based criteria that measured the objective needs and vulnerabilities of the displaced would address the very different situations in which displacement occurs.

As to how to measure when IDP-specific needs would cease to exist, there was some cautioning that the needs-based criteria should not be guided by a false concept of the conditions that existed before displacement began. Emphasis, it was argued, should not be put on a "return to normalcy" because "normalcy" was something few people knew even before displacement occurred and when in most cases those affected already were extremely vulnerable. In determining when displacement ends, the emphasis should instead be on when the vulnerability resulting from displacement -- the differential vulnerability -- ends. As a cautionary example, one participant pointed out that the World Bank had developed definitions for responding to development-induced displacement which essentially sought "to make people whole again" but that these were so expansive and expensive so as to be unrealistic for the international community to monitor and finance. In this connection, it was suggested that both the needs-based and solution-based approaches to when displacement ends would require a definition of "basic livelihood". To support the restoration of livelihoods, the nexus between development and humanitarian relief would be critical. The key principle should be to seek to foster self-reliance at every stage. The assistance that IDPs receive should change over time according to their situation; at a certain stage, IDPs would likely need more development-focused assistance than humanitarian aid, and accordingly a different international agency might need to help them. Especially in protracted crises and frozen conflicts, the development agencies would need to come in earlier and more strongly.

To the three sets of criteria outlined in the Options Paper, the Geneva discussions also added rights-based criteria. It was pointed out that an emphasis on human rights would enable a distancing of the discussion from an actor-driven approach (whether the actor be a government, international agency, or donor) to a more people-centered approach, focused on the needs and rights of the IDPs themselves. The right to freedom of movement, it was suggested, should be the overarching principle as it ensured IDPs the right to choose among possible solutions, rather than be held hostage to a particular solution such as return; it also provided for an understanding of the conditions that would have to be put in place in order for people to exercise this right. Solutions-based criteria, which articulated the right to return or to resettle, brought out this right most predominantly. Solutions-based and rights-based criteria, however, were not mutually exclusive. The refugee analogy had shown that people could resettle but still decide later to return home; in other words, a person did not give up the right to return because s/he chose to resettle. For IDPs, this was especially clear: as citizens of their country, they enjoyed the right to freedom of movement. They could integrate locally but still retain the right to claim property in their area of origin, because this right was not linked to whether or not a person was an IDP. Rights-based criteria therefore could provide an important means of addressing the challenges

presented in situations of frozen conflicts where IDPs were held hostage to the specific solution of return and in the meantime were denied the right to resettle and integrate locally.

Moreover, rights-based criteria underscored that solutions would need to entail addressing the underlying causes of displacement in order to ensure viability. In this connection, cause-based criteria for measuring an objective change of human rights circumstances also were needed. In situations such as Colombia, for example, it would be difficult to envisage an end to the conflict and concomitant displacement unless the deep social inequities at the root of the conflict were addressed. Furthermore, needs-based criteria that focus on bringing to an end the specific needs and vulnerabilities created by displacement, thereby contributing to the sustainability of solutions, would have to assert the right of returning or resettling IDPs to enjoy their social, economic and political rights on a par with the resident population.

As to the structure of the criteria, participants recommended that the typology that the meeting had used for examining different case studies -- countries in active conflict, frozen conflicts, and countries in transition -- would be a useful organizing principle, especially as different contexts would require different approaches. In protracted conflict situations, such as Colombia, there appeared to be no end to displacement: people continued to move but no solution was in sight and return or resettlement was not sustainable. On the other hand, in situations such as post-conflict Sierra Leone or in Burundi after the closure of the *regroupement* camps, return or resettlement did not mean that displacement had ended or that the particular needs created by displacement had dissipated.

Situations of frozen conflict seemed to demand specific criteria to strike a balance between protecting the right of IDPs to return and ensuring that they are not made hostage to this goal and impeded from pursuing the alternative solution of resettlement and local integration. Views differed, however, as to whether IDPs should continue to be regarded as IDPs if they were able to find a durable solution elsewhere in the country but remained interested in return, if and when safe return became possible. Some participants argued that IDPs in this situation should still be considered IDPs because of their inability to exercise certain rights, such as the right to return, which meant that they had not really had a choice of solution. Others, however, while not disputing that people retained the right to return as a fundamental human right, questioned whether these people should still be considered IDPs, especially in cases where the conflict remained intractable and return proved impossible for decades. Still others suggested that even if IDPs settled and integrated in a place other than their area of origin, they should retain not only the right to return but also their identification as “displaced persons” as an important part of their own identity and perspective that their situation had not been resolved.

Overall, it was stressed that indicators for when displacement ends should convey and evidence responsibility, especially of states, for bringing displacement to an end in a manner respectful of the rights of the displaced.

## **Conclusions**

At the Geneva consultations, there was broad consensus that it would be valuable to have criteria, or a checklist of indicators, to provide guidance on when internal displacement ends. This was considered important so as to ensure that the approach to the issue would not be driven

by the interests of a particular actor or actors, such as the government concerned or donors, but based on principled and humane criteria respecting the rights of the displaced.

Of the possible approaches set out in the Options Paper, it was proposed to consolidate the three sets of criteria into two: (i) cause-based; and (ii) durable solutions, which would combine the solutions-based criteria and the needs-based criteria. However, the fact that causes could linger on indefinitely raised some concern about cause-based criteria being given the main emphasis. Instead, the focus should be on enabling solutions for IDPs through return, local integration or resettlement. There would be cases, after all, where solutions could be possible even if the causes of displacement were not fully addressed. Strong emphasis was given to the importance of ensuring that IDPs had options for solutions and could exercise these voluntarily in safety and dignity. However, for displacement to end, these solutions also needed to be sustainable. Drawing on needs-based criteria, this would require that the particular needs, risks and vulnerabilities induced by displacement be addressed, such that the differential vulnerability of displacement ends. The Geneva discussions also added rights-based criteria, which underscored the importance of the voluntary nature of solutions, offered a useful framework for defining needs, both for protection and assistance, and provided a means for resolving some of the concerns raised by applying strictly cause-based criteria.

In another important outcome, it was recommended that the different contexts of displacement according to which the case studies had been organized could also usefully be the organizing principle for the criteria. In light of the particular challenges presented in situations of frozen conflict and displacement, it was proposed that the indicators address not only when displacement ends but also when and under what circumstances the international community should advocate for solutions other than return.

Finally, it was agreed that a valuable next step in this process of consultation would be to share these findings and a set of draft criteria with donors and international financial institutions, which would need to play an important role in supporting effective transitions from displacement.

***Rapporteur: Erin Mooney***

## **APPENDIX**

### **Discussion with Sergio Vieira de Mello, UN High Commissioner for Human Rights**

The UN High Commissioner for Human Rights, Sergio Vieira de Mello, joined the meeting as its luncheon guest speaker. He began by noting that the rule of law and the importance of reaffirming it would be the key theme of OHCHR during his tenure. Human rights, he stressed, were not just an ethical, political or socio-economic imperative, but first and foremost a legal obligation of states, as well as non-state actors. Three interlinked and overarching concepts -- dignity, equality and security -- would be the pillars of his approach. The High Commissioner also emphasized his interest in exploring the notion of protection and what it should mean for OHCHR. While the meaning of protection was very clear in the mandate of UNHCR, the ICRC and UNICEF, the same could not be said of OHCHR. Greater precision would have to be given to the concept of protection and the Office's role in providing it. At the same time, he would like to strengthen OHCHR's links with humanitarian agencies and lend support to their efforts.

IDPs, the High Commissioner noted, were one of his main concerns. The issue of internal displacement was closely related to the broader concern of the protection of civilians in conflict. It was also linked to poverty since those displaced by natural disasters, at least in developing countries, typically were among the poorest of society. There were also IDPs displaced by hunger, by discriminatory policies or by policies of enforced displacement. He suggested the need for a comprehensive approach and cited the 1996 conference on population movements in the Commonwealth of Independent States as a possible model. Co-sponsored by the International Organization for Migration, the Organization for Security and Cooperation in Europe and UNHCR, the process had facilitated governments' acknowledgement of the problem and the need for international assistance in implementing a Plan of Action that included preventive measures as well as solutions.

The High Commissioner invited participants to assist him in giving greater precision to the concept of protection and what OHCHR could do, both at the conceptual level and on the ground, to translate the Guiding Principles on Internal Displacement into improved protection of the rights of IDPs.

In response, participants stressed the importance of OHCHR having a field capacity and access to populations at risk, in particular through the deployment of human rights monitors. The human rights monitoring missions in Rwanda and Colombia were pointed out as examples where OHCHR had played an important protection role with regard to IDPs. A protection survey focusing on field-level responses and gaps that was being carried out jointly by the Brookings-SAIS Project on Internal Displacement and the OCHA IDP Unit would give special consideration to the role that OHCHR could play in the field. On the conceptual side, reference was made to the IASC policy paper on protection of IDPs that had grown out of a discussion between De Mello, when he served as Emergency Relief Coordinator, the RSG on IDPs, and Mary Robinson, the previous High Commissioner for Human Rights. To support implementation

of this policy, the role of the Resident and Humanitarian Coordinators remained critically important.

International operational agencies, some pointed out, often found it difficult to advocate for human rights out of concern that this would jeopardize their humanitarian aid activities. However, an important shift in thinking had occurred in recent years, with recognition now being given to the linkages between humanitarian work and protection. The IASC reference group on human rights and humanitarian action was one indication of this. In the field, of course, there remained significant challenges. Resident and Humanitarian Coordinators, because of political constraints, often felt unable to take up protection issues as robustly as protection advocates would like. Moreover, human rights field operations often were structurally part of the political, rather than humanitarian, wing of the UN, which aggravated such tensions. There was a lot of engagement on the part of the humanitarian community with the mandate of the RSG on IDPs and it was suggested that OHCHR could build on that example. One obvious link with the humanitarian community could be by the special rapporteurs, such as the one on the right to food.

It was noted that discussions about the protection role of the international community often tended to be limited to the debate over humanitarian intervention, whereas the international community's responsibility in fact was far broader. Development and donor assistance, for example, could strengthen the protection responsibility of states and of the international community. It was also important to consider how to foster the protection responsibility of non-state actors, including corporate actors. Although protection was generally considered a top-down approach, a bottom-up approach of empowerment of the populations concerned also was needed. These two approaches would reinforce one another.

With regard to internal displacement, participants noted that protection remained the main gap. It was up to OHCHR to see how it could help fill that gap, given that internal displacement was fundamentally a human rights issue. After all, if human rights were respected, there would be no arbitrary displacement. Once displaced, IDPs were more vulnerable to additional human rights abuses, and the restoration of human rights was essential to solutions. This comprehensive connection between human rights and displacement should concern not just the human rights officer servicing the mandate of the RSG on IDPs but should engage the entire Office. To begin with, a human rights field presence would be critical for providing IDPs protection on the ground. But protection also related to the work of human treaty bodies, country and thematic rapporteurs, and national human rights institutions with which OHCHR was working. Also relevant was OHCHR's new project on peacekeeping and human rights since peacekeeping missions could play a critical protection role for IDPs. While there had been progress recently at OHCHR in a number of these areas, there remained scope for much more to be done, both at headquarters and on the ground, to integrate the protection of IDPs into the work of the Office.

The concept of social sustainability was also considered to be important. It was suggested that while it was easy to discuss with governments the issue of economic sustainability, that of social sustainability, which included a lot of human rights issues, was another matter. Because in many IDP situations, governments were often blocking the rights of IDPs, a way needed to be found to expand the definition of social sustainability so that human rights related issues would be considered legitimate to discuss.

The High Commissioner expressed appreciation for the comments and insights offered. Field presence, he indicated, was an issue that would be examined as a matter of priority in OHCHR. He noted with interest the suggestion that OHCHR could act as a bridge between the political and humanitarian regimes. Forging closer partnerships between the special rapporteurs and humanitarian agencies also was a good idea. In addition to international law and what the Commission and treaty bodies could do to monitor and promote its implementation, he agreed that national human rights institutions were very important; indeed, there were several positive but under-reported examples of changes in governments' behavior as a result of the work of these institutions. The High Commissioner committed to work to "mainstream" the issue of IDPs throughout OHCHR. On the issue of social sustainability, he suggested that a first step would be for the World Bank, regional development banks and the IMF to accept that development and reconstruction would not be fully effective unless they integrated human rights concerns. Doing so certainly was critical to the focus of this meeting on when internal displacement ends.

## AGENDA

9:00 Welcome and Introductions

Host: Elisabeth Rasmusson, Norwegian Refugee Council – Global IDP Project, Geneva

Chair: Francis M. Deng, Representative of the UN Secretary-General on Internally Displaced Persons

9:30 Findings of Previous Meeting (April 22, Washington DC)

Erin Mooney, Brookings-SAIS Project on Internal Displacement

Discussion

10:15 Case Studies

Introduction to Case Studies

Susan Forbes Martin, Institute for the Study of International Migration, Georgetown University

*Protracted Crises*

Burundi

Susan Martin, Institute for the Study of International Migration, Georgetown University

Colombia

Jozef Merkx, UNHCR

Sierra Leone

Claudia McGoldrick, Norwegian Refugee Council

Discussion

11:00 Coffee Break

11:20 Case Studies (cont.)

*Frozen Conflicts*

Georgia

Maura Lynch, UN OCHA Tbilisi

Discussion

- 11:45 Post-Conflict Situations and Peace Negotiations
- Angola
    - Jamie McGoldrick, UN OCHA Response Coordination Branch
  - Balkans
    - Soren Jessen-Petersen, Stability Pact for Southeastern Europe
  - Rwanda
    - Greta Zeender, Norwegian Refugee Council
  - Sri Lanka
    - Jeevan Thiagarajah, Consortium of Humanitarian Agencies, Sri Lanka
- Discussion
- 13:00 Luncheon
- Speaker - Sergio Vieira de Mello, UN High Commissioner for Human Rights
- 14:30 Criteria for when displacement ends
- Comments on UNHCR's approach
- Guillermo Bettocchi, UNHCR Division of International Protection
- Discussion
- 15:30 Coffee Break
- 16:00 Discussion of Criteria (cont.)
- 17:00 Conclusion and Follow-up
- 17:30 Close of Meeting

## LIST OF PARTICIPANTS

Marlene Alejos	Human Rights Officer, OHCHR
Kofi Asomani	Director, OCHA – Internal Displacement Unit
Christophe Beau	Senior Information Officer, Norwegian Refugee Council – Global IDP Project
Guillermo Bettochi	Special Advisor, UNHCR – Department of International Protection
Paul Bonard	Deputy Head, ICRC – Central Tracing Agency and Protection Division
Marguerite Contat-Hickel	Diplomatic Adviser, ICRC – International Organizations Division
Johan Cels	Liaison Officer, Commission on Human Security
Roberta Cohen	Co-Director, Brookings-SAIS Project on Internal Displacement
Jeff Crisp	Head, UNHCR – Evaluation and Policy Analysis Unit
Francis Deng	Representative of the UN Secretary-General on Internally Displaced Persons
Steven Holtzman	Senior Social Scientist, World Bank
Soren Jessen-Petersen	Chair, Stability Pact for Southeastern Europe – Steering Committee on Refugee Matters
Allan Jury	Chief, WFP – Strategy and Policy Division
Sikander Khan	Programme Officer, UNICEF – Emergency Operations
Eve Lester	Refugee Coordinator, Amnesty International
Ragnhild Lund	Norwegian University of Science and Technology Trondheim – Research Group on Forced Migration
Maura Lynch	Head, UN OCHA Tbilisi

Claudia McGoldrick	Information Officer, Norwegian Refugee Council – Global IDP Project
Jamie McGoldrick	Head of Africa I, OCHA Response Coordination Branch
Carlos Maldonado	Senior IDP Adviser, OCHA – Internal Displacement Unit
Susan Martin	Director, Institute for the Study of International Migration, Georgetown University
Jozef Merkx	Senior Desk Officer for Colombia, UNHCR
Erin Mooney	Deputy Director, Brookings-SAIS Project on Internal Displacement
Peter Neussl	IDP Adviser, OCHA Internal Displacement Unit
Elisabeth Rasmusson	Resident Representative, Norwegian Refugee Council
Mona Rishmawi	Senior Human Rights Adviser, OHCHR
Ed Schenkenberg van Mierop	Coordinator, ICVA
Jeevan Thiagarajah	Executive Director, Consortium of Humanitarian Agencies, Sri Lanka
Meghan Scott	OCHA Democratic Republic of Congo
Amina Tirana	UNDP – Transition Recovery Unit
Shyla Vohra	Legal Officer, International Organization for Migration
Jonas Widgren	Director General, International Centre for Migration Policy Development
Wendy Williams	International Federation of the Red Cross
Greta Zeender	Information Officer, Norwegian Refugee Council – Global IDP Project

### *III. Roundtable sponsored by*

*The Brookings Institution-Johns Hopkins SAIS Project on Internal Displacement  
Georgetown University's Institute for the Study of International Migration  
The Global IDP Project of the Norwegian Refugee Council*

*27 September 2004*

*Hosts: The Governments of Canada and The Government of Switzerland  
Permanent Mission of Canada, Geneva*

### **Summary**

The meeting was the third in a series of consultations organized in response to the request made by the United Nations Office for the Co-ordination of Humanitarian Affairs (OCHA) to the Representative of the United Nations Secretary-General on Internally Displaced Persons, Dr. Francis M. Deng, for guidance and advice on “when an IDP [internally displaced person]...should no longer be considered under this category.” Support for the meeting was provided by the Canadian International Development Agency and the Federal Department of Foreign Affairs of the Government of Switzerland.

Previous meetings held in Washington D.C. and Geneva brought together representatives from the international humanitarian, development and human rights communities as well as researchers and field practitioners. This third meeting was convened to seek the views of national governments faced with the challenge of internal displacement, of civil society from affected countries, and of donor countries (see List of Participants).

The approaches of national governments, civil society and donors were explored in a series of panel discussions (see Agenda). *Draft Criteria and Guidance on When Internal Displacement Ends* (see Appendix) were then reviewed. Participants expressed broad-based support for the practical guidance provided in the draft document. To maximize its operational relevance, a consensus emerged that this guidance should come in the form of benchmarks of solutions for IDPs. In addition, the meeting recommended that a step-by-step flowchart be appended to the benchmarks to provide guidance on how to approach the issue of when displacement ends in different settings.

### **Introductory Remarks**

The meeting opened with introductory remarks from the two co-hosts, the Government of Canada and the Government of Switzerland. On behalf of the Canadian Government, Elissa Golberg, Deputy Director of Humanitarian Affairs in the Department of Foreign Affairs, noted that the discussions reflected the maturity of the issue of internal displacement; whereas it was not long ago that the problem of internal displacement went unacknowledged by many governments, an increasing number were now adopting national policies on the issue. Creating environments enabling sustainable solutions for IDPs was especially important. Franklin

Thevenaz, Head of the Division of Multilateral Affairs and Special Assignment of the Swiss Development Cooperation Humanitarian Aid, observed that the question of when displacement ends was difficult and complex but needed to be addressed in order to ensure durable solutions for IDPs. In exploring this question, it was essential to learn from specific country experiences and the views of governments and civil society.

Roberta Cohen, Co-Director of the Brookings-SAIS Project, presented remarks on behalf of Francis Deng. She explained that the need for criteria on the issue of “when displacement ends” had emerged from the field in response to a number of queries and requests for guidance. How this issue was addressed could have significant implications for IDPs, including the termination of assistance. In addition, defining when displacement ends would help develop more accurate statistics on IDPs, which in turn would enable improved policies and programs. In developing this guidance, it was important to hear the views of international agencies, donors and governments of countries with situations of internal displacement as well as those of civil society and IDPs. Consultations with IDPs were particularly important since decisions on the issues affecting their lives would be more sustainable if the IDPs themselves were involved in the discussions.

## **Overview of the Issue**

Susan Martin, Director of Georgetown University’s Institute for the Study of International Migration, provided an overview of the process leading up to the meeting. To begin with, background research had examined the issue through three lenses. The first lens was the normative framework, namely the *Guiding Principles on Internal Displacement*. Second, the refugee experience by analogy was explored, though the relevance of this approach had been found to be limited given the different legal situation of persons displaced in their own country. There nonetheless were important linkages to take into account, most notably, the fact that when refugees were returned prematurely to their country of origin, they often became internally displaced. A comprehensive approach to resolving displacement situations therefore was required. The third lens was to look at a number of specific case studies of internal displacement. Different types and phases of displacement were considered, in particular emergencies, post-conflict situations and cases of protracted displacement in so-called “frozen conflicts”. While the focus of the research and discussions had primarily been on displacement due to conflict, persecution and serious violations of human rights, it was recognized that displacement caused by natural disasters and development-induced displacement would need to be considered, though perhaps because of the particular issues involved may require different sets of criteria.

Erin Mooney, Deputy Director of the Brookings-SAIS Project pointed out that in the absence of criteria, decisions as to when IDPs should no longer be considered as such were taken on an *ad hoc* basis, according to often conflicting approaches among different actors, and with results that in many cases violated the rights of the internally displaced. Because these decisions could have serious ramifications for IDPs, there needed to be an understanding of how to ensure a transition from displacement that respected the rights of the displaced. The purpose was not to define a point in time when attention and support to persons who were once displaced would altogether cease, but rather to determine when national and international attention and resources should shift from a specific focus on IDPs. Reference was made to the Good Humanitarian Donorship Initiative and its commitment to support “transitions from humanitarian relief to recovery and

development.” Determining what “recovery” means for IDPs, that is, identifying what would be required to enable IDPs to be free of the specific risks and vulnerabilities that displacement entailed, was another, and perhaps more constructive way, of looking at the issue of “when displacement ends”.

Three possible approaches -- cause-oriented, needs-focused and solutions-based -- had developed and been tested in earlier consultations. The consensus to emerge was that while each approach shed light on important aspects of the issue, no one approach adequately covered its complexity and the range of possible scenarios. In any event, the three approaches were not mutually exclusive, but in many ways overlapping. The resulting preference was for particular weight to be given to a blend of needs-focused and solutions-based approaches. Criteria had been drafted on this basis and would be reviewed after hearing the views of governments faced with internal displacement, civil society representatives and donors.

### **Country Experiences**

It was recognized that national responsibility for responding to internal displacement extends to supporting solutions to the problem. The Guiding Principles envisage three possible solutions: return, resettlement and local integration. Further, they specify a responsibility on the part of the national authorities to establish the conditions and provide the means to enable IDPs to return or to resettle voluntarily and in safety and dignity. To help identify the necessary conditions enabling such solutions, a number of national approaches and experiences were considered.

The case of Guatemala, presented by Angela Chavez, Minister Counsellor from the Permanent Mission of Guatemala in Geneva, underscored the long time needed to resolve situations of displacement. Although peace agreements had been signed in 1996, conditions had not yet been met enabling an end to internal displacement for all those affected. The experience in Guatemala nonetheless reflected the value of addressing the return or resettlement and reintegration of refugees and IDPs in the framework of peace agreements. Also, it suggested that a durable solution meant ensuring that displaced persons have the opportunity to reach the same level of development as the populations that did not suffer displacement. Important aspects of displaced persons’ integration included: the recovery or replacement of personal documentation; access to land; property rights; and equal access to education. Some of these areas might require specific legislation or procedures, for which international technical support could be valuable. Development programs needed to be inclusive, ensuring IDPs’ participation and attention to their specific development needs. However, given the reluctance and fear among IDPs to come forward and identify themselves as such, confidence-building measures needed to be included and the benefits of their participation made apparent. Reconciliation therefore was a key element of durable return, resettlement and reintegration. Reconciliation efforts should be supported by a range of national actors, including the government, civil society and the media.

In Serbia-Montenegro, Ambassador Dejan Sahovic noted that the situation was not as advanced as in Guatemala in that the conflict that had produced the displacement had not yet been resolved, but rather was in a “frozen” stage. Uncertainty remained about the eventual political status of Kosovo, which was a complex and highly politicized issue with important implications for finding solutions for IDPs. In the meantime, international assistance, which was being reduced, was still very much needed to address the humanitarian and development needs of the

displaced and others in the country, where thirty percent of the population lived below the poverty line. A national strategy on internal displacement adopted in 2002 took as its starting point that IDPs were entitled to the full enjoyment of their rights on a par with the rest of the population, but that their situation may require special measures to enable them to access their rights. For instance, regulations had been changed in Serbia to enable IDPs to register as permanent residents in order to facilitate their access to certain social services and benefits, but without losing their entitlements as IDPs. However, few IDPs had exercised this option to date and it appeared that most IDPs were set on returning to their places of origin. Conditions in these areas were not yet conducive to safe return; in fact a recent outbreak of hostilities had reversed the small trend towards returns that had occurred, suggesting that durable solutions for IDPs would follow only after fundamental political issues, in particular the status of Kosovo, were resolved.

In the discussion, it was emphasized that political factors were an essential part of the equation of resolving situations of conflict-induced displacement and that they could both support and impede efforts to find solutions. A worse case scenario would be when a government arbitrarily decides to end displacement and forcibly returns displaced persons. At the other extreme were situations where the absence of a political settlement prolonged situations of displacement, as political interests to reclaim territory impeded any solution other than return of the displaced. Moreover, political obstacles could arise at the local level, for instance when local communities resist the return of IDPs.

The case of Cyprus illustrated that arriving at durable solutions for displaced persons could be a highly politicized issue with deep implications for conflict resolution efforts. In 2004, thirty years after the cease-fire agreement and the mass displacement of Greek Cypriots to the South and of Turkish Cypriots to the North, the UN Plan for Cyprus was put to a popular referendum, but failed to receive the required endorsement of both sides. The issue of IDP return had been among the key points of contention, in particular the limits placed by the Plan on the number of displaced Greek Cypriots permitted to return to the North, where a mass influx would leave Turkish Cypriots in the minority. At the same time, it had to be recognized that the displaced on both sides of the cease-fire line were generally considered to have fully integrated into their communities. Although many had outstanding claims for property, which, it was suggested, should be addressed on an individual rather than a wholesale basis, they no longer had specific needs, such as material assistance as a result of their displacement. Moreover, it was stressed that even when return might become possible, it would be essential to safeguard the right of choice as to whether or not to return.

What was clear was that especially in situations of conflict-induced displacement, the need for a political process to resolve the conflict and root causes was critical both to resolving displacement and to preventing future displacement. Above all, the goal must be to restore for IDPs and all residents of the country access to national protection. This would require establishing good governance and the rule of law, including by ending impunity for human rights violations and promoting an environment of respect for human rights. Solutions would need to come from the countries concerned, including not only from the governments and from any non-state actors involved in the conflict, but also by engaging IDPs and ensuring that their views were integrated into peace processes as well as peace-building efforts.

The international community, for its part, could do more to support national and local efforts to assess and address the root causes of displacement. To do so effectively, it needed to take a broader approach to internal displacement than strictly a humanitarian response. In particular, there was need for better analysis of why conflicts and displacement had occurred and an examination not only of the political causes but of the economic and social roots as well. In addition, a more comprehensive approach would necessitate stronger linkages between the humanitarian and human rights communities as well as with development, political and security actors. Further, there would be need in many cases to look beyond the strictly national context to engage regional and sub-regional partners.

In the absence of a political solution, participants suggested that there nonetheless could be steps that governments could take to set IDPs on the path towards solutions. In Georgia, a case of protracted displacement, the government recently had begun to pursue solutions more proactively, both at the political level as well as in initiating programs to improve the living conditions of IDPs. In this latter connection, a reassessment and recount of the IDP population had been undertaken. Persons who were not bona fide IDPs, for example individuals who married IDPs but who themselves had not been displaced, would cease to receive IDP-specific benefits. As a technical exercise designed to enable the improved targeting of government programs for IDPs, this was considered a useful initiative. However, actual implementation of the process had been marred by a lack of transparency and information-sharing with the displaced, which led to confusion and fear among them, in particular due to uncertainty as to whether this process would have implications for their entitlements and their rights, including the right to property restitution and the right to return. This experience underscored that while there could be practical benefits to rationalizing IDP figures, such exercises required proper planning, the inclusion of IDPs in the planning, and timely and accurate information to IDPs on the process as well as its implications in terms of their eligibility for assistance and the exercise of their rights.

### **The Role of Civil Society**

Civil society had a critically important role to play in supporting durable solutions for IDPs. Representatives of local groups engaged with the internally displaced in Sri Lanka, Sudan and Peru highlighted a number of ways in which civil society could contribute to supporting solutions for IDPs and how these groups in turn could be supported in their efforts.

Enabling IDPs to make informed choices about solutions -- whether to return, resettle or integrate locally -- was an essential criterion for a voluntary decision. Representatives of civil society suggested that one of their key roles was to ensure that IDPs had access to information about these choices and an objective assessment of the situation in areas of return or resettlement. Awareness campaigns using the media, posters and other dissemination vehicles were critical to conveying this information. One innovative example was the *Practitioner's Kit for Return, Resettlement, Rehabilitation and Development*, produced by the Consortium of Humanitarian Agencies in Sri Lanka, which elaborated strategies on documentation, access to land and other issues needing to be addressed as part of solutions to internal displacement.<sup>57</sup> The

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<sup>57</sup> *Practitioner's Kit for Return, Resettlement, Rehabilitation and Development: An Agenda for a Call for Action* (Consortium of Humanitarian Agencies and the Brookings-SAIS Project on Internal Displacement, March 2004).

*Kit* was being widely disseminated in Sri Lanka, including in LTTE-held areas, and its use was also being promoted as a tool in other countries where IDP return and resettlement processes were underway.

Civil society could also serve as a useful conduit for the flow of information from IDPs to national and international decision-makers, including donors. Consulting only government representatives from countries affected by internal displacement provided a narrow perspective, and one often guided by political, rather than humanitarian, considerations. For instance, there could be situations in which it may be in the government's interest to prematurely declare an end to displacement or, conversely, to prolong a situation of displacement to the detriment of the displaced. Expanding the sources of information relied upon could give a clearer picture of the conditions of IDPs as well as of the situation in areas of potential return or resettlement. Listening to the views of civil society therefore could enhance national and international actors' understanding of the situation and enable more informed decisions about aid and other programs for the displaced. To facilitate this interaction, effective information-sharing channels and forums for dialogue between civil society and national as well as international authorities should be established.

The contributions that civil society could make to facilitating and supporting durable solutions to displacement were wide-ranging. These included: ensuring IDPs had access to information about the return or resettlement process and conditions in areas of return or resettlement; advocating IDPs' concerns as regards return and resettlement as well as in peace processes; pressing for and facilitating the creation of forums for consultation directly with IDPs; promoting reconciliation; and monitoring and reporting on IDPs' conditions after their return or resettlement to ensure that so long as IDPs have specific needs they do not disappear from attention. There was broad consensus that efforts should be undertaken to support and enable the greater engagement of civil society groups in these and other activities on behalf of IDPs.

### **The Role of Donors**

Participants recognized that donors could significantly influence decisions about when, and on what basis, programs and assistance specific to IDPs would cease. While donors pointed out that for the most part these decisions were made by the humanitarian agencies they funded or determined by the policies of the government of the country concerned, they acknowledged the importance of their having their own perspective on the issue and ensuring that these decisions accorded with the rights of the displaced. Donors, after all, had an interest in promoting durable solutions for displaced persons. They also wanted to safeguard against IDPs falling into a state of dependency and ensure that assistance did not become a substitute for addressing the root causes of displacement. Donors suggested that they could and should play a more active role, in particular in advocating against decisions taken prematurely to end IDP-specific programs. To do so effectively and ensure a principled approach, they welcomed the initiative to develop this guidance.

For donors, key to the issue was identifying the degree of differential vulnerability that IDPs experienced in different countries compared with other groups, who may also be in need. In this connection, donor governments welcomed the evaluation that was being undertaken of donor responses to IDP situations and that would be examining "when displacement ends" in different

country contexts.<sup>58</sup> Generally, donors would require objective information on the conditions of IDPs, information, they noted, which would often best be provided by civil society.

Supporting durable solutions for IDPs also would require, in the words of one donor representative, that “funds follow them home” to their areas of return or resettlement. In some cases, returning or resettling IDPs would have ongoing humanitarian needs that would require continued support. This would require that humanitarian assistance funding portfolios devote greater attention and funds to IDPs’ needs upon return or resettlement. At the same time, there was a need for development actors to become engaged much earlier, starting in the emergency phases, to begin promoting IDPs’ self-reliance.

The policy on internal displacement that recently had been issued by the U.S. Agency for International Development was commended, in particular for its comprehensive approach to internal displacement, which extended to durable solutions and transitions to development. Beyond using the Guiding Principles on Internal Displacement as a framework and applying a protection lens to all phases of displacement, among the core principles guiding the policy were: that humanitarian assistance be given on the basis of the greatest need; that assistance seek to build the capacity of IDPs; and that a long-term approach promote IDPs’ self-reliance and ability to be full contributors to the overall development of their country.

### **Towards a Set of Benchmarks**

The *Draft Criteria and Guidance on When Displacement Ends* that had been prepared for discussion at the roundtable were then reviewed (see Appendix). Ten core elements of a solution to internal displacement were identified: (1) return or resettlement; (2) a voluntary decision; (3) safety and dignity; (4) durability of the solution; (5) participation of IDPs; (6) reintegration, including social, economic and political reintegration; (7) non-discrimination; (8) property restitution or compensation; (9) access for humanitarian organizations; and (10) national responsibility to establish these conditions. A number of scenarios and the questions these raised were then considered, including scenarios related to the causes of displacement as well as the possible implications of decisions on when displacement ends for the provision of material aid to IDPs.

The consensus that emerged at the meeting was that the practical guidance provided in the draft document, which participants welcomed, should come in the form of benchmarks of solutions for IDPs. To maximize their operational relevance, the benchmarks should be accompanied by a flowchart on how to apply these in different contexts.

Throughout the meeting, participants emphasized the elements they considered key to solutions to internal displacement and that would be important to include or to bring out more explicitly in the benchmarks. In addition to the emphasis on addressing root causes and enhancing support for the role of civil society, the following were key themes to emerge from the discussions:

### **Participation of IDPs**

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<sup>58</sup> John Borton, Margie Buchanan-Smith and Ralf Otto, *Learning from Evaluations of Support to Internally Displaced Persons. IDP Synthesis Report: Final Report* (Ohain, Belgium: Channel Research, 2005).

It was considered of primary importance that IDPs themselves be directly engaged in the search for solutions to their situation as well as in peace-building and development efforts. Their ownership of solutions was essential to the durability of solutions and to reducing the risk of long-term dependency. As the draft criteria pointed out, IDPs' participation in the process also was important for upholding voluntary return or resettlement in dignity. Civil society groups were recognized as particularly valuable partners for facilitating and promoting the participation of IDPs.

It was critical to ensure an inclusive methodology of consultation, paying attention to "who's in and who's out" and ensuring access to the process by all segments of the IDP population. It was recognized that displacement, whether caused by conflict or other causes, often occurred along cultural and ethnic divides which needed to be bridged in order to achieve durable solutions. Minority and indigenous groups, who were often disproportionately affected by displacement and traditionally marginalized, must be engaged and their specific concerns taken into account. Particular attention should be paid to ensuring that the voices of women and children, who often faced discriminatory barriers to participation, were heard. Indeed, one participant from a country deeply affected by internal displacement noted that consultation with women was all the more essential when assessing possibilities for return or resettlement and determining whether the causes of displacement have ended as women "have the survival of their families as their priority and will therefore require more information before trusting an area is safe enough for return."

### **Voluntary Solutions**

There was no question that a solution to displacement -- whether return to one's area of habitual residence or resettlement elsewhere in the country -- must be voluntary, entailing freedom of choice based on an informed decision and without coercion. However, there was no set formula for determining at what point in time IDPs would be in a position to make a free choice. In Southern Sudan, for instance, a representative of civil society pointed out that IDPs would likely fall into four groups: (i) those able to return before the peace agreement was finalized; (ii) those who would return shortly after an agreement is signed; (iii) those who would wait to see evidence of an improvement in security and the restoration or establishment of basic services in areas of return; and (iv) those who would decide not to return, but instead choose to integrate in the areas to which they were displaced. These were all valid choices and each should be supported and facilitated.

Particularly important was that accurate information on the conditions in areas of return or resettlement be made available at each stage. As noted above, civil society could play a valuable role in ensuring IDPs had access to this information. In addition, "go and see" visits were useful. However, it was pointed out that these must be organized with caution, for if these were encouraged too early, when conditions were not yet ripe for return, they could be traumatic and discourage return in the long run even when adequate conditions for return eventually materialized. It was also essential to consider how decisions about the provision of aid could affect IDPs' choice of solutions. For instance, if assistance were only provided to IDPs who returned but denied to those who opted for resettlement, this would be a form of coercion. Donors indicated that specific guidance on this issue would be helpful.

In cases where the causes of internal displacement persisted indefinitely, especially in so-called “frozen conflicts”, it was not likely that return would be a safe and viable option for the near future. In such situations, there was broad consensus that having choices must mean that IDPs are not held hostage to the goal of return for political and strategic interests, and left in a state of dependency, but are able to pursue the option of local integration or resettlement.

## **Reconciliation**

Reconciliation was considered so critical to the safety of durable solutions that it merited specific attention. Beyond addressing the causes of displacement at the political level, national and local level reconciliation was essential to the reintegration of the displaced. Experiences on the ground had shown that the process of return and reintegration could be as traumatic as the initial displacement. Tensions could continue long after the signing of a formal peace agreement and new sources of conflict often emerged, for instance over land and property ownership. Communities to which displaced people were returning or resettling must be prepared for their arrival and reintegration. To this end, consulting and sharing information with the local community about programs to reintegrate the displaced and to help rebuild the entire community was essential to prepare these communities for IDPs’ return or resettlement. Civil society could play an instrumental role in facilitating this interaction. Solutions arrived at in cooperation with all affected communities, including both the displaced and the communities to which they were returning or resettling, would foster a sense of ownership and therefore be the most effective and lasting.

Related to the issue of reconciliation, participants recognized that the experience of displacement and of being identified as an IDP had a psychological aspect that it was important not to ignore. Especially in protracted situations of displacement that persist for decades, even if IDPs are able to fully integrate locally, enjoy national protection and no longer have specific needs and vulnerabilities requiring specific assistance, they may nonetheless fear that the traumatic events leading to displacement will be forgotten. In some situations, the need for remembrance and recognition of the particular plight of those who were displaced may therefore be an important element of IDPs’ reintegration into society and the process of national reconciliation.

## **Linkages to Development**

Continuity between return or resettlement and a development process in which IDPs are fully engaged was identified as an essential ingredient of a durable solution. To facilitate this, programs promoting IDPs’ self-reliance needed to begin early on and be incorporated into assistance programming. This would safeguard against the risk of dependency while they were displaced and also facilitate their economic reintegration upon return or resettlement. Depending on the duration of their displacement and their plans on whether to return or to resettle, IDPs may need to learn completely new skills and means of income-generation, and this also should begin well before return or resettlement.

The question arose as to whether a certain level of development must first occur in order to enable solutions for IDPs. To be sure, certain conditions, including access to basic services as well as opportunities for a livelihood, were considered key to ensuring the sustainability of solutions for IDPs. However, in many situations of displacement entire countries were devastated

or suffered extreme poverty, with the result that non-displaced populations also were living a precarious existence. Indeed, IDPs may have received certain services while in camps, such as medical care, that they may not be able to access so readily at home, especially in rural areas. Solutions for IDPs therefore needed to be viewed and pursued in the context of overall economic development and broad-based approaches benefiting communities as a whole.

In Guatemala, where many of the IDPs had come from agrarian backgrounds, the main thrust of efforts to restore livelihoods for the displaced had been a general program of rural development. In addition to enabling the return and reintegration of IDPs, this program had stimulated progress in agricultural practices and productivity. A representative of the Government noted that although this general development approach had somewhat diluted the focus on IDPs, this strategy had by and large met their assistance and development needs.

Generally, what was important was to ensure that IDPs could participate in development processes both before as well as after they returned or resettled on a par with the rest of the population. Where IDPs continued to have special needs and vulnerabilities, it was recognized that these would have to be taken into account and addressed by development strategies. To help ensure this, the recommendation was put forth to examine the extent to which IDPs' particular development needs were being addressed in Poverty Reduction Strategy Papers and UN Development Assistance Frameworks. A checklist could then be developed for ensuring attention to IDPs' specific needs in these key vehicles for development programming. When IDPs ceased to have needs specific to their displacement, they no longer needed to be a special focus but could be covered as part of general development programming.

### **An Integrated Approach**

An overarching theme throughout the discussions was the need for an integrated approach to ending situations of displacement. Causes of displacement needed to be analysed more broadly to capture the full range of political, economic, social and cultural factors that would require addressing in order to arrive at effective solutions. Stronger linkages between relief and development were required, with holistic community-based approaches that ensured attention to IDPs' particular needs and vulnerabilities while promoting the development of communities as a whole. Protection must be a focus throughout; one important mechanism for facilitating this focus was the establishment of protection working groups at the country level.

The need for an integrated approach also related to the range of actors needing to be involved in finding and implementing solutions to internal displacement. Beyond the humanitarian and human rights communities, greater involvement and cooperation was needed on the part of development, peacekeeping and political branches of the UN and with regional organizations. Increased communication and cooperation was also needed between and among donors, humanitarian and development agencies, and governments of the countries concerned, as was greater interaction and partnership with civil society. Ensuring the participation of IDPs and local communities would promote a sense of ownership in solutions and thereby increase the sustainability and effectiveness of the solutions.

## **Conclusion**

The roundtable concluded that guidance was needed to avoid a continuation of arbitrary decisions about the termination of aid and of programs specifically targeted to the internally displaced. The issue was not so much about exactly *when* displacement ends but rather *how* best to promote solutions for IDPs that are durable and respect their human rights. The fact that work on this issue had been grounded in the Guiding Principles on Internal Displacement was highlighted as especially important and as an essential framework to maintain.

The draft criteria presented to the meeting received broad support, with some useful suggestions for elaboration. The overall recommendation was that rather than “criteria” these could instead be packaged as a set of benchmarks of what solutions for IDPs should entail. These benchmarks should set out both situational conditions, such as safety, as well as procedural conditions, including access and monitoring in areas of return. Moreover, because certain considerations would vary depending on the context, guidance as to how to apply these benchmarks in different scenarios was considered to be particularly valuable. Drawing on the scenario analysis already prepared, it was suggested that this guidance could most usefully be provided in the form of a flowchart or checklist setting out key questions to ask depending on the circumstances and main characteristics of any given situation. This would promote the use and application of the benchmarks and, by extension, durable solutions in actual situations of internal displacement.

***Rapporteur: Erin Mooney, with assistance from Amalia Fawcett, NRC Global IDP Project***

## APPENDIX

### **Draft Criteria and Guidance on When Internal Displacement Ends**

Internal displacement “shall last no longer than required by the circumstances,” the Guiding Principles on Internal Displacement stipulate. It is now well recognized that to be internally displaced is to be exposed to a range of particular risks and vulnerabilities. Bringing an end as soon as possible to this precarious plight therefore is critically important. However, because a premature end to displacement can have serious ramifications, there has to be an understanding of how to define and realize this in a manner that respects the safety and security of the displaced.

Criteria as to when internal displacement ends currently do not exist. Instead, decisions on when internally displaced persons should cease to be considered as such are taken on an *ad hoc* and arbitrary basis, which in many cases violate the rights of the displaced. Around the world, guidance on when internal displacement can be considered to have ended is being sought by many actors -- governments responding to internal displacement crises, UN and other international agencies seeking to assist them, donors funding programs for the internally displaced, civil society groups promoting their rights and, most importantly, the internally displaced themselves.

#### **A. CORE CRITERIA**

Core criteria for when displacement ends can be found in the Guiding Principles on Internal Displacement, which set forth the rights of IDPs as well as the responsibilities towards them. The Principles, which have gained broad international standing, provide guidance to states, non-state actors, international and non-governmental organizations, and all other actors, including donors, when addressing internal displacement. Specifically, a set of ten core criteria as to when displacement ends can be drawn from the Guiding Principles:

- 1. Return or resettlement**
- 2. Voluntariness**
- 3. Safety and dignity**
- 4. Durability of the solution**
- 5. Participation of IDPs**
- 6. Reintegration**
- 7. Non-discrimination**
- 8. Property restitution or compensation**
- 9. Access for humanitarian organizations**
- 10. National responsibility to establish these conditions**

- 1. Return or Resettlement:** The Guiding Principles explicitly envisage two possible solutions to internal displacement: return or resettlement. In the context of internal displacement, these terms have a specific meaning:

**Return** entails going back to one's place of habitual residence, i.e. the place of residence prior to displacement.

**Resettlement**, for IDPs, entails resettling and starting a new life in another part of the country. In principle, this could be in the location where IDPs found temporary refuge during displacement or it could be in another part of the country altogether.<sup>59</sup>

2. **Voluntariness**: The decision to return or resettle must be voluntary. This means free and informed choice that is not taken as a result of coercion.

**Freedom of choice**: IDPs have the choice whether to return or resettle in another part of the country. This is the logical extension of the right to freedom of movement and the right to choose one's residence. IDPs should not be forced for political or other reasons to return home or, alternatively, to resettle in another location against their will. While return is often the preferred solution, it must be borne in mind that IDPs may not wish to return to home areas. Should an IDP wish to move to another location within the country, that is her/his right. Moreover, implicit in the concept of voluntariness is that an IDP can change her/his mind about the decision to return or resettle.<sup>60</sup>

**Informed Decision**: To be voluntary, IDPs must have access to the information needed to make an informed decision on return. They need information about the conditions in areas of return or resettlement as well as about the type of support they can expect to receive upon return or resettlement. Such information, especially as it regards conditions of safety in areas of potential return or resettlement, should come not only from official sources but also from independent assessments by local organizations and human rights monitors. "Go and see visits" by IDP community and family representatives to areas of potential return or resettlement are one of the best means of enabling IDPs to make an informed decision. Visits by IDPs to inform themselves of the situation in areas of potential return or resettlement should not result in loss of recognition as an IDP or of IDP benefits.<sup>61</sup>

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<sup>59</sup> Because these two forms of resettlement can involve different issues and challenges, a distinction sometimes is made between resettlement of IDPs in another part of the country and a third solution of *local integration*, which involves IDPs settling and starting a new life in the areas in which they temporarily were located during their displacement. In this paper, "resettlement" covers both settlement in the place of refuge and settlement in another part of the country. Resettlement in another country is, of course, also a possibility for IDPs, but it is clear that if IDPs migrate to another country, they are no longer IDPs. Some countries that resettle refugees from countries of asylum also consider applications from individuals still within their home countries who have a well-founded fear of persecution, including internally displaced persons.

<sup>60</sup> Drawing by analogy from an International Council of Voluntary Agencies (ICVA) draft paper on refugee return prepared for pre-UNHCR ExCom (summer 2004).

<sup>61</sup> This principle draws by analogy from the recognition that individual refugees or representatives of refugee populations should have the possibility "to return to their country of origin to inform themselves of the situation there – without such visits automatically involving the loss of refugee status." UNHCR Executive Committee, UN Doc. A/AC.96/588, (1980), para. 483 (3)(e).

**Absence of coercion:** To be voluntary, IDPs' decision to return or resettle must not be a result of coercion. Clearly, this means that IDPs must not be compelled to return or resettle at the point of a gun or otherwise be physically forced, harassed or intimidated to do so. However, coercion might also come in less direct, more circumstantial, forms. In a number of countries, IDP camps have been closed and assistance provided *only* to those IDPs who return home, as part of an overall strategy to induce return. Moreover, IDPs must not be pressed to return to precarious security conditions and unsustainable living conditions: any measures to return, resettle or relocate IDPs against their will to a place where their life, safety or health would be at risk are absolutely prohibited under international law. Particular safeguards are required to ensure that the decision of IDP women is truly voluntary and not the result of coercion, either direct or circumstantial.<sup>62</sup>

- 3. Safety and Dignity:** Voluntary return or resettlement must occur in conditions of safety and dignity. To begin with, this typically requires that the threats that forced people to flee in the first place are removed, for instance, an end to hostilities in the case of conflict-induced displacement. However, it also requires that there be adequate protection from other threats to security such as physical attacks, abuse and intimidation, and landmines. Safety implies the availability of effective national protection mechanisms, including police and the re-establishment of the rule of law, which IDPs are able to access without discrimination.

In addition to physical security, safety for returning/resettling displaced persons is widely understood to comprise two further elements: "legal safety" and "material security".<sup>63</sup> "Legal safety" means not only the restoration of the rule of law, but that returning or resettling displaced persons can freely and fairly access national legal protection to guarantee respect for their rights should they encounter security or other problems. "Material security" refers to an ability to maintain oneself through access to land or means of livelihood. It would likely require the provision of assistance to support IDPs to re-establish themselves and, until this proves possible, the continued provision of humanitarian aid for essential needs, for example until the first harvest. The concept of material security therefore is closely connected to the criterion of reintegration assistance (see point 6 below).

Conditions of safety must be carefully and impartially assessed prior to promoting return or resettlement. Human rights monitoring in areas of return or resettlement therefore is key. Given that women and children typically comprise the overwhelming majority of displaced populations, it is critical that assessments of safety take into account threats of gender-specific violence and exploitation as well as threats specific to children, such as military recruitment, and to other groups with particular protection concerns, such as indigenous populations. For certain individuals, such as IDPs who have given testimony against war criminals or traffickers, it may be that safe return is not a feasible option.

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<sup>62</sup> Walter Kälin, *Guiding Principles on Internal Displacement: Annotations*, Studies in Transnational Legal Policy, No. 32 (Washington, D.C.: American Society of International Law and the Brookings Institution Project on Internal Displacement, 2000), p. 71, citing, by analogy, UNHCR Executive Committee Conclusion No. 73 (XLIV/1993).

<sup>63</sup> UNHCR, *Handbook on Voluntary Repatriation* (Geneva: UNHCR, 1996), p. 11.

The UNHCR *Handbook on Voluntary Repatriation* considers return “in dignity” to mean being treated with respect and full acceptance by national authorities, including full restoration of rights, and not being “manhandled”, arbitrarily separated from family members or having conditions placed on return.<sup>64</sup> Others have taken dignity to mean “the right of individuals to achieve human potential in ways that are determined by themselves and free from coercion.”<sup>65</sup> This would imply that in addition to being voluntary, the decision to return should be supported with the availability of means to achieve a minimum quality of life upon return.<sup>66</sup> Return “in safety and dignity” accordingly requires addressing both protection as well as reintegration concerns.

4. **Durability of the Solution:** The UNHCR often refers to the three “durable” solutions to refugee crises. There is explicit recognition that refugee status does not end until the solution, whether repatriation, local integration or resettlement, has proven to be lasting. Particularly when the solutions are prompted by changed circumstances (e.g., the end of hostilities), the changes must be assessed over time -- a minimum of 12 to 18 months. A similar timeframe of monitoring the situation of returned/resettled IDPs would be important to ensure that the solution they choose is indeed durable and supported with the necessary assistance. Too often, the causes of displacement can reappear and people again forced to relocate.
5. **Participation of IDPs:** The participation of IDPs in the planning and management of their return or resettlement and reintegration is an important element of upholding the criteria of “voluntariness” and “dignity”. Moreover, involving the displaced in their return/resettlement will greatly facilitate these processes and is likely to ensure more lasting and sustainable returns or resettlement. Participation of IDPs must include the participation of IDP women and representatives of all main segments of the displaced community.
6. **Reintegration:** An end to displacement entails more than simply IDPs’ return or resettlement. Indeed, return/resettlement typically brings its own set of challenges and even continued risks and vulnerabilities that can be nearly as traumatic as displacement. The fact that refugees who repatriate typically are referred to as returnees for a certain period underscores this point. Although they have returned, they continue to have special needs and vulnerabilities. IDPs, whether they return, resettle or decide to integrate locally, likewise should remain of concern until their reintegration into the local community can be assured. Indeed, IDPs’ reintegration and ability to enjoy a normal livelihood in safety is considered by many to be *the key* determinant of when internal displacement ends.

As to when an IDP can be considered to be reintegrated, it is important to examine how the situation of IDPs compares with that of the local population in various respects including

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<sup>64</sup> Ibid. This definition of “dignity” has been applied in the IDP context. See, for example, Norwegian Refugee Council (in association with the Office of the High Commissioner for Human Rights), Training Module No. 4: Return, Resettlement and Reintegration (1999).

<sup>65</sup> *Social Applications of Refugee Law Repatriation in Safety and Dignity*, S. Quick, M. Chingono and R. Preston (eds.), unpublished paper prepared for the International Refugee Law Project, University of Warwick, International Center for Education in Development (1995), p. 28, cited in Rosemary Preston, ‘Researching Repatriation and Reconstruction: Who is Researching What and Why?’ in *The End of the Refugee Cycle?: Refugee Repatriation and Reconstruction*, Richard Black and Khalid Koser (eds.) (Oxford: Berghahn Books, 1999), p. 28.

<sup>66</sup> Ibid. p. 33.

physical safety, access to public services, access to land and means of livelihood, and documentation. Reintegration is therefore closely connected to the criterion of non-discrimination (see point 7). Reintegration can be broadly defined as “the re-entry of formerly internally displaced people into the social, economic, cultural and political fabric of their community of origin or new community.”<sup>67</sup>

While there are no fixed indicators to measure “reintegration” even in the case of refugees, it is possible to identify from the Guiding Principles key elements of what reintegration should mean for IDPs. Reintegration, it bears emphasizing, is a gradual process, including:

- **Social reintegration:** equal access to public services, including education, health services and pensions; family reunification; restoration of community links including through reconciliation programs.
- **Economic reintegration:** equal access to employment and to other opportunities for income-generation and achieving a viable livelihood; equal access to land, especially agricultural land, which typically is crucial for IDPs’ livelihoods, otherwise IDPs become dependent on assistance; assistance to rebuild/repair damaged shelter or build new permanent shelter.
- **Political reintegration:** the right to participate fully and equally in public affairs at all levels, including the right to vote and to stand for public office; replacement of personal documentation.
- **Cultural reintegration:** the right of IDPs to education and to receive public information in a language they understand; resettlement and reintegration programs that respect IDPs’ cultural traditions, e.g. settling in communal groups.

To support safe and durable reintegration in post-conflict societies, reconciliation and transitional justice programs likely will be needed. As regards economic reintegration and the recovery of livelihood, it must be understood that IDPs will likely require continued humanitarian assistance to meet essential needs for some time after they return or resettle and likewise will require specific reintegration assistance packages (e.g. with seeds, tools, and shelter materials) to assist their transition towards self-sufficiency. Safeguards for continued humanitarian assistance and special reintegration assistance programs will be needed for unaccompanied minors, the elderly and other special needs groups. Consultation with the displaced in the design and implementation of reintegration and reconstruction programs is the best way of ensuring that the special needs of particular groups of IDPs are met and that reintegration programs overall are effective.

7. **Non-discrimination:** IDPs who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of having been displaced. They have the right to participate fully and equally in public affairs at all levels and to have equal access to public services. Non-discrimination of IDPs upon return/resettlement is therefore an important indicator of IDPs’ reintegration into the

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<sup>67</sup> *Practitioner’s Kit for Return, Resettlement, Rehabilitation and Development: An Agenda for a Call for Action* (Colombo, Sri Lanka: Consortium of Humanitarian Agencies and the Brookings-SAIS Project on Internal Displacement, 2004), p. 8.

community. Among the areas where attention to ensuring non-discrimination of IDPs is most important:

- IDPs' physical security. Returning or resettling IDPs must not be considered "enemies" and targeted on this basis.
- IDPs' legal security. International human rights law provides that "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law."<sup>68</sup>
- Equality of access for IDPs generally as well as for particular groups, such as women, indigenous persons and ethnic minorities, within IDP populations who may be particularly vulnerable to discrimination.
- Access to public services, including education and health services, which may require that these services be rebuilt or repaired, for instance, in the aftermath of displacement due to conflict.
- Access to personal documentation, which typically is a prerequisite to accessing public services, to being able to vote and even to recognition before the law.
- Political participation, including the right to vote and to stand for election to public office.

**8. Property restitution or compensation:** Authorities have the responsibility to assist IDPs recover, to the extent possible, property and possessions or, if this is not possible, to obtain compensation or other reparation. Ensuring IDPs' property rights is essential not only for their legal protection and material security. Property disputes often are a source of conflict, including among different groups of displaced persons; therefore resolving property issues in a fair and equitable manner is crucial for conflict resolution and sustainable solutions to displacement. Resolving these will remain an important aspect of truly enabling someone to move beyond his or her displacement. It is important to note that even if IDPs choose not to return to their home areas but to resettle elsewhere, they retain their property rights; in no way, does the choice not to return abrogate IDPs' rights to their property and to dispose of it as they wish.

**9. Access by Humanitarian Organizations:** International humanitarian organizations and other relevant actors, including international development organizations and human rights monitors, must have safe, unimpeded and timely access to assist IDPs in their return or resettlement and reintegration. In the absence of such access, it is impossible to verify that the requisite conditions of voluntary return or resettlement in safety and dignity exist or to determine the type of reintegration support that returned or resettled IDPs require. If humanitarian organizations are unable, due to unsafe conditions, to accompany IDPs or to have access to them upon return or resettlement, serious questions arise as to the sustainability and appropriateness of the solution to displacement, whether it is return or resettlement.

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<sup>68</sup> International Covenant on Civil and Political Rights, Art. 26.

## **10. National Responsibility to Establish the Conditions Enabling an End to Displacement:**

The Guiding Principles, in particular Principles 28-30, specify that the authorities have primary responsibility to establish the conditions enabling an end to displacement. Specifically, authorities have the responsibility to:

- establish conditions, as well as to provide the means, to enable IDPs to return voluntarily, in safety and with dignity, or to resettle voluntarily in another part of the country and to facilitate the reintegration of returned or resettled IDPs. Special efforts are to be made to ensure the full participation of IDPs in the planning and management of their return or resettlement and reintegration.
- ensure that IDPs who have returned or resettled are not discriminated against as a result of their having been displaced.
- guarantee the right to participate fully and equally in public affairs at all levels and to have equal access to public services.
- assist return and/or resettled IDPs to recover, to the extent possible, their property and possessions or, if this is impossible, to obtain appropriate compensation or another form of just reparation.
- grant and facilitate for international humanitarian organizations and other relevant actors, rapid and unimpeded access to IDPs to assist in their return or resettlement and reintegration.

## **B. GUIDANCE IN DECISION-MAKING ON WHEN DISPLACEMENT ENDS**

An answer to the question of “when does internal displacement end” has been elusive precisely because of the complexity of the situations in which it arises. Guidance is therefore needed on how to apply criteria in actual situations. Among the possible scenarios that arise and beg the question of whether internal displacement has ended are the following, coupled with the critical questions that must be asked:

**Scenario 1 – Causes of displacement no longer exist:** One way to look at the issue of when displacement ends would be to focus on the causes of internal displacement and, drawing on the refugee analogy, consider the impact of “changed circumstances.” In the case of conflict-induced displacement, the signing of a peace agreement or even the cessation of hostilities would be key indicators. However, even when a ceasefire or peace agreement is in place, conditions of peace and security may take time to materialize. Conflicts often persist long after peace agreements are signed. Indeed, the cessation of hostilities may be followed by new forms of instability and insecurity, particularly if armed groups fail to demobilize.

Thus, even when peace comes, a strictly cause-based approach has its limitations. Though often important in creating an enabling environment, peace is not necessarily the end of displacement. People may still be unable to return or resettle and reintegrate. As aptly put by an IDP in Southern Sudan:

*Our hopes for peace are not very high following the signing of the three protocols by the Sudanese government and SPLA. ...peace also comes with its own problems – how do we return home? Already some people are saying that since there is peace, we are no longer IDPs. ...For us we are still IDPs until we return to our original homes or opt to remain in the northern part of Sudan.*<sup>69</sup>

Once the causes of displacement no longer exist, among the key questions one must ask are:

- Is the peace sustainable in the short and medium term?
- Do conditions of safety exist in areas of potential IDP return or resettlement? For example, have armed actors been demobilized, landmines removed and effective protection mechanisms established?
- Does safety exist for all segments of the IDP population, including groups such as ethnic minorities with particular protection concerns?
- Will IDPs be enabled to rebuild their lives, including through access to land?
- Will returning IDPs have equal access to public services, including education and medical care?
- Will lost personal documentation, so essential to access public services and for protection, be replaced?

**Scenario 2 – Reversing displacement through the right to return:** For some observers, being an IDP ceases only when the forced movement that is inherent in the definition is reversed, that is, through return to the place from which they were displaced.<sup>70</sup> Those IDPs who opt not to return, even when return is feasible, would then cease to be considered IDPs.<sup>71</sup> Such an approach, however, would have the effect, of making return more of a requirement than a right. In most cases, return is the preferred solution of IDPs and the best solution for all concerned. Indeed, the international community in some recent cases has even expanded the right to include a right to return to one's home, and has enshrined this right in a number of peace agreements. However, care must be exercised to ensure that the overriding emphasis on return, and return to a specific place, does not tie displaced persons to political goals, such as reversing "ethnic cleansing", which however desirable, risk infringing upon IDPs' rights to freedom of movement and choice of residence. Doing so can also infringe on IDPs' right to safety since in some cases IDPs encouraged to return to their homes have encountered violence and persecution. Under these circumstances, among the questions one must ask are:

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<sup>69</sup> *Sudan Assistance Bulletin* (Khartoum: Office of the Resident Coordinator/Humanitarian Coordinator, 1 July 2004), section 6.

<sup>70</sup> Bill Frelick, 'Displacement without End: Internally Displaced Who Can't Go Home,' *Forced Migration Review*, Issue 17 (May 2003), p. 10.

<sup>71</sup> It is on this basis that the U.S. Committee for Refugees decided in the case of Guatemala, for instance, to no longer count as IDPs, those who did not return when return was considered by USCR to be feasible. See Erin Mooney, *An IDP No More? Exploring the Issue of When Internal Displacement Ends*, Discussion Paper (2002), p. 6.

- Is the return truly voluntary? What safeguards are in place to ensure this?
- Is return occurring in conditions of safety? Are conditions of safety and non-discrimination possible for all segments of the IDP population or do there exist groups, such as minorities, who cannot return safely even if general conditions of safety exist?
- Does return to their homes to reverse ethnic cleansing accord with IDPs' rights to freedom of movement and choice of residence?
- Are conditions in areas of return economically viable, enabling IDPs to support themselves, after receiving reintegration support for a transitional period?
- Have IDPs participated in the plans for return and are their preferences, whether to return, resettle or reintegrate locally, known?
- Are IDPs also able to exercise their right to voluntarily resettle or integrate locally, and with the benefits and assistance comparable to what they would have received had they returned?

**Scenario 3 – Causes of displacement persist indefinitely, safe return remains unrealistic:** In the case of prolonged or frozen conflicts, IDPs may become hostage for years, even decades, to political objectives insisting on a “right to return” that remains elusive. In such situations, however, political imperatives often dictate that the return of IDPs is considered the *only* possible solution to displacement. While return is a goal often shared by the IDPs themselves, continuing under these circumstances to consider IDPs as such can actually be to their disadvantage and an abuse of their rights. The IDPs may be kept in a state of dependence and impeded from even temporary integration into the communities where they have resided for years. They may, for instance, be denied the right to own land or property, to attend schools with local children or to vote in local and national elections for candidates in the areas where they reside during their displacement. Under such circumstances, among the questions to ask are:

- Do IDPs in these situations still experience vulnerabilities, as a result of having been displaced, that are different from those of the non-displaced population, such that they continue to require special assistance?
- Do IDPs have the ability to integrate locally or resettle elsewhere, if only temporarily, without undermining their right to return, should this ever become possible?
- Even if an IDP has achieved integration in his/her host community and no longer has special needs resulting from displacement, does he/she still wish to return to his/her home area whenever this becomes possible?
- Are the intentions of IDPs to return or to resettle known and based on impartial information?

**Scenario 4 – Development-induced displacement:** Unlike in most situations of displacement caused by conflict, violence or sudden natural disasters, in the case of development-induced displacement, measures to ensure a durable solution for IDPs can, and indeed should, be planned

and even begin to be implemented *prior* to the onset of the displacement. Indeed, criteria to be observed in cases of development-induced displacement have been elaborated.<sup>72</sup> Among the elements that will require attention are consultation with the displaced, resettlement, reintegration and compensation for lost property.

### C. USE OF ASSISTANCE POLICIES TO END DISPLACEMENT

Donors and agencies providing assistance to IDPs play an important role in determining when displacement ends via the choices they make about how long, where and to whom aid will be given. The following scenarios demonstrate two approaches and the questions that should be asked in determining whether and how to use assistance in ending displacement.

**Scenario 1 – Cutting off food and/or other basic assistance to IDPs:** Food and/or other basic assistance to IDPs, such as electricity in IDP communal centers, often has been cut off with a view to inducing IDPs to return to their home areas or resettle elsewhere. Some categorically assert that return/resettlement cannot be voluntary if the government (or international community) cuts off aid to encourage this movement. Humanitarian assistance to IDPs, however, might be cut off for other reasons, such as because aid agencies' money has run out or because agencies and donors decide, after an extended period of providing emergency humanitarian assistance, that it is important to support more transitional, development-type assistance promoting IDPs' self-reliance and the recovery of livelihoods. Although an eventual shift from humanitarian assistance to development assistance would be desirable in principle, the withdrawal of aid must be guided by certain criteria in order for this not to constitute coercion. Among the questions to be asked:

- If by cutting off assistance, IDPs are likely to have few options but to return, is it possible for them to return in safety and dignity?
- Has the decision to cut off of food aid or other assistance to IDPs been based on an objective assessment that, without this assistance, IDPs can cope, and will it be accompanied by guarantees for support to enable IDPs to re-establish a means of livelihood with a view to ultimately being able to provide for themselves?
- Did IDPs receive ample notice of the reduction in rations or other assistance and have they been consulted in the modalities for implementing this decision and preparing contingencies?
- Are special safeguards in place for individuals, such as the elderly, single mothers with young children, and the disabled, who may require continued humanitarian assistance over the medium to longer-term? In this connection, a potential model to follow may be the approach planned in Sri Lanka, where the Government has committed to not end food aid to IDPs before a family-by-family needs assessment is conducted.

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<sup>72</sup> See World Bank, Operational Policy 4.12: Involuntary Resettlement (Washington, D.C., 2001) and OECD-DAC, Guidelines for Aid Agencies on Involuntary Displacement in Development Projects (Paris, 1992).

**Scenario 2 – Incentives for return or resettlement:** The implications of incentives on the principle of voluntary return or resettlement must also be considered. Some would argue that *a small amount of* encouragement or inducement for IDPs to return or resettle could prove valuable. For example, the government could give IDPs money if they return. However, certain benchmarks should apply. Most importantly, any incentives for return or resettlement should be permissible only if conditions of safety exist in the areas of return or resettlement. In Tajikistan in the mid-1990s, for example, UNHCR considered extending its returnee shelter assistance program to a particular area of the country. However, after assessing that the area was still too dangerous, it decided against initiating the program, having concluded that doing so would compromise the voluntary nature of return.<sup>73</sup> Accurate and objective information on conditions in areas of return and ensuring that IDPs themselves have such information is critical. Among the questions to ask are:

- Do conditions of safety exist in areas of potential return or resettlement?
- Do IDPs have access to impartial assessments of conditions in areas of return or resettlement before accepting the incentive?
- Are these incentives sufficient to support IDP reintegration upon return/resettlement or will additional assistance be required and is this included in the planning?

#### **D. CONCLUSION**

In asking the question “when does internal displacement end?” the expectation may be an answer giving a specific point in time when attention and assistance to persons who have been internally displaced suddenly cease, allowing governments, international agencies and donors to terminate support for these populations. The shift, however, must not be abrupt or automatic but carried out within a humane framework based on the criteria enumerated above and that involves consultations with the internally displaced themselves. Most importantly, it must not introduce hardship for the displaced but seek to provide assistance, protection and reintegration and development support to enable the displaced to resume and rebuild their lives in an environment of safety and dignity.

*Prepared by Erin Mooney,  
with input from Susan Martin, Roberta Cohen and Christophe Beau*

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<sup>73</sup> *Manual on Field Practice in Internal Displacement: Examples from UN Agencies and Partner Organizations of Field Based Initiatives Supporting Internally Displaced Persons*, Inter-Agency Standing Committee Policy Paper Series No. 1 (New York: OCHA, 2000), p. 69.

## AGENDA

Co-Chairs: Government of Canada and Government of Switzerland

9:00 WELCOME AND INTRODUCTORY REMARKS

Elissa Golberg, Deputy Director, Humanitarian Affairs Department of Foreign Affairs, Government of Canada

Franklin Thevenaz, Head of Division Multilateral Affairs and Special Assignment, Swiss Development Cooperation Humanitarian Aid, Government of Switzerland

Roberta Cohen, Co-Director, The Brookings Institution-Johns Hopkins SAIS Project on Internal Displacement

9:15 INTRODUCTION TO THE ISSUE

Susan Martin, Director, Institute for the Study of International Migration, Georgetown University

Erin Mooney, Deputy Director, Brookings Institution-Johns Hopkins SAIS Project on Internal Displacement

9:30 NATIONAL APPROACHES

*What criteria do Governments use in determining “when displacement ends”? How are durable solutions for IDPs defined and supported? What problems need to be addressed to find solutions for IDPs? What lessons and best practices can be derived from experiences to date? How effectively can policies for IDPs be integrated with efforts to obtain durable solutions for refugees?*

Moderator: Franklin Thevenaz, Swiss Development Cooperation, Government of Switzerland

*Lessons from Guatemala* – Angela Chavez, Minister Counselor, Permanent Mission of Guatemala

*Current Challenges in Serbia-Montenegro* – Ambassador Dejan Sahovic, Permanent Representative, Permanent Mission of Serbia and Montenegro

Discussion

10:45 Coffee break

11:00

## THE ROLE OF CIVIL SOCIETY

*What criteria do civil society consider important in determining “when displacement ends”? How can civil society organizations help ensure that IDPs’ views are taken into account in these decisions? What role can civil society play in supporting durable solutions for IDPs?*

Moderator: Elisabeth Rasmusson, Resident Representative Norwegian Refugee Council

*Sri Lanka* - Jeevan Thiagarajah, Executive Director, Consortium of Humanitarian Agencies

*Sudan* – Dong Samuel Luak, Secretary General, South Sudan Lawyers’ Society

*Peru* - Fabian Taype Calixto, President, CONDECOREP

Discussion

12:00

## OPPORTUNITIES AND CHALLENGES TO ENDING DISPLACEMENT

*What are the opportunities and challenges for ending displacement? What are the political factors that support or impede efforts to find solutions for internally displaced persons? What are the socio-economic factors that support or impede such efforts? In the absence of a solution to the cause of displacement, what are the most effective ways of promoting IDPs’ integration and self-reliance?*

Moderator: Roberta Cohen, Co-Director, Brookings-Johns Hopkins SAIS Project on Internal Displacement

*The Role of the UN in Finding Solutions to Displacement*

Dennis McNamara, Director, Inter-agency Internal Displacement Division, and Special Adviser to the UN Emergency Relief Coordinator

*Negotiating Solutions to Protracted Displacement: The Case of Cyprus*

Lisa Jones, Policy Adviser, OCHA, Policy Development and Studies Branch and formerly Political Affairs Officer in the Secretary-General’s Good Offices Mission on Cyprus

*End of Displacement? The Case of Georgia*

Anna Morck, Project Manager: Information, Counseling and Legal Aid, Norwegian Refugee Council, Georgia

Discussion

13:15 LUNCH

14:15 THE ROLE OF DONORS

*What criteria do donors use in determining when displacement ends and when to cease funding special programs for IDPs? What is the impact of ending humanitarian aid to IDPs on when displacement ends? What constitutes a “durable solution” for IDPs and how can donors best support its achievement? How should donors balance relief and development needs in promoting solutions?*

Moderator: Leslie Norton, Permanent Mission of Canada

Mikael Lindvall, First Secretary, Humanitarian Affairs, Permanent Mission of Sweden

Bill Garvelink, Senior Deputy Assistant Administrator, Bureau of Democracy, Conflict and Humanitarian Assistance, USAID

Sarah Maguire, Senior Legal and Human Rights Consultant, Department for International Development, United Kingdom

Discussion

15:45 Coffee break

16:00 TOWARDS CRITERIA ON WHEN DISPLACEMENT ENDS

Moderator: Leslie Norton, Permanent Mission of Canada

*Presentation of Draft Criteria and Guidance*  
Susan Martin and Erin Mooney

Discussion

17: 45 CLOSING REMARKS

Susan Martin, Georgetown University

Patrick Egloff, Government of Switzerland

Elissa Golberg, Government of Canada

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## ADDITIONAL REFERENCE MATERIALS

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*Conference Discussion Paper*, prepared by Erin Mooney, "An IDP No More? Exploring the Issue of When Displacement Ends," April 2002. Available at: [http://www.brookings.edu/fp/projects/idp/conferences/ends\\_background\\_paper.pdf](http://www.brookings.edu/fp/projects/idp/conferences/ends_background_paper.pdf)

*Forced Migration Review*, Issue 17 on "When Does Internal Displacement End?" May 2003. Guest edited by Susan Martin and Erin Mooney. Contains 15 articles (available at: <http://www.fmreview.org/FMRpdfs/FMR17/fmr17full.pdf>)

- Bringing the end into sight for internally displaced persons, Erin Mooney
- Cessation of refugee status; a guide for determining when internal displacement ends? Rafael Bonoan
- Displacement without end: internally displaced who can't go home, Bill Frelick
- A UNHCR Perspective, Guillermo Bettocchi & Raquel Freitas
- The legal dimension, Walter Kälin
- National legislation, Christophe Beau
- Looking beyond emergency response, Patricia Weiss Fagen
- The role of protection in ending displacement, Roberta Cohen
- The question not asked: when does displacement end? Michael M. Cernea
- Burundi: out of sight, out of mind? Susan Martin
- Colombia: the end of displacement or the end of attention? Amelia Fernandez & Roberto Vidal Lopez
- Rwanda: narrowing criteria cannot solve IDP problems, Great Zeender
- Sierra Leone: resettlement doesn't always end displacement, Claudia McGoldrick
- Sri Lanka: on the edge of ending internal displacement? Rupasingha A. Ariyaratne
- Indonesia: confusing deadlines, Christopher R. Duncan
- The southern Caucasus experience, Marco Borsotti

*Masses in Flight: The Global Crisis of Internal Displacement*, by Roberta Cohen and Francis M. Deng, Brookings Institution, Washington DC, 1998, Section on "When Does Displacement End," pp. 35-39. Available at: <http://www.brookings.edu/press/books/massflgt.htm>

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