

# FORCED MIGRATION

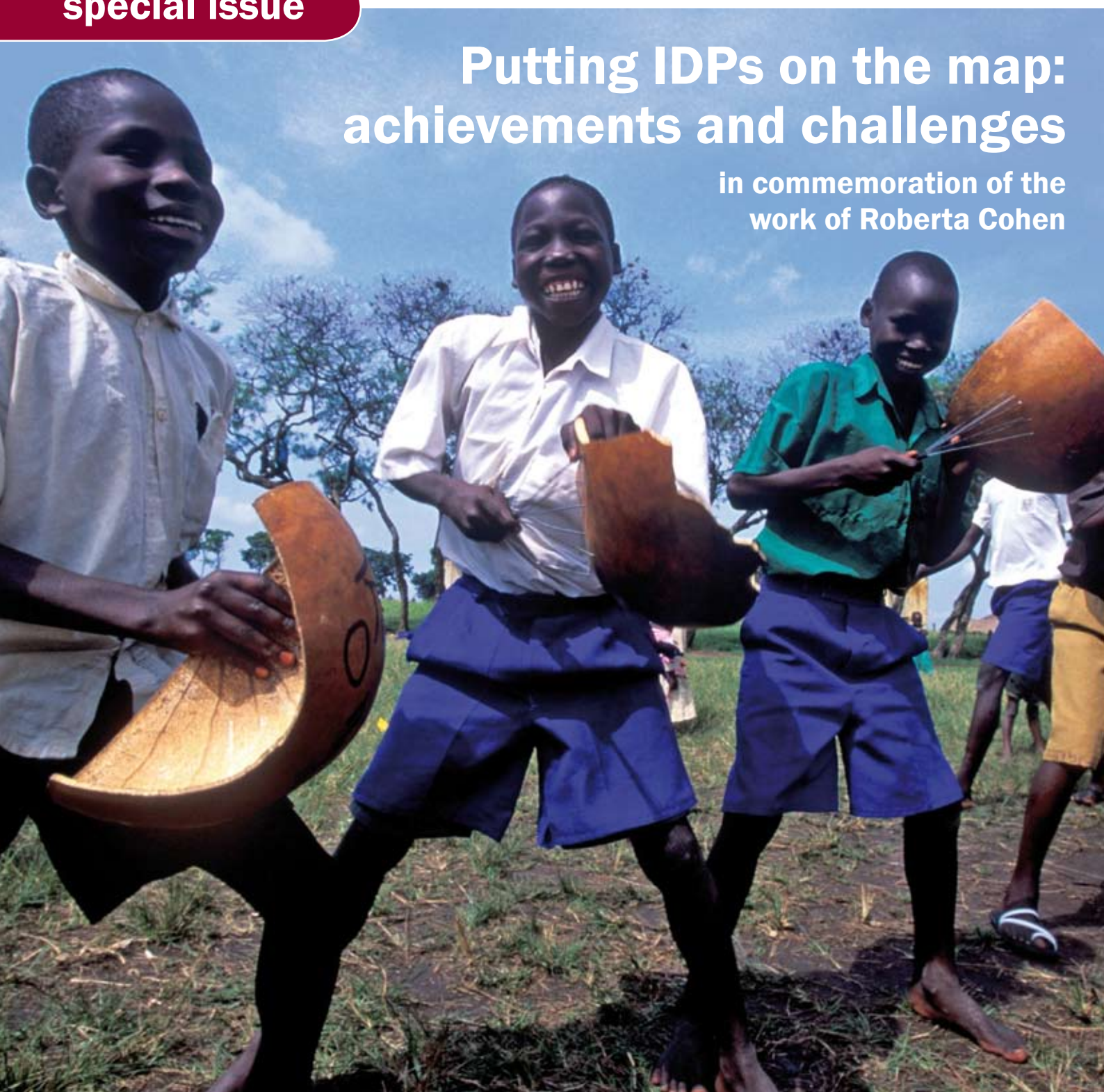
review

December 2006

special issue

## Putting IDPs on the map: achievements and challenges

in commemoration of the  
work of Roberta Cohen



## Forced Migration Review

Forced Migration Review provides a forum for the regular exchange of practical experience, information and ideas between researchers, refugees and internally displaced people, and those who work with them. It is published in English, Spanish, Arabic and French by the Refugee Studies Centre, University of Oxford.

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### Forced Migration Review

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### Brookings-Bern Project on Internal Displacement

Tens of millions of people have been forced from their homes by armed conflict, internal strife and systematic violations of human rights but remain within the borders of their own countries. The Brookings-Bern Project on Internal Displacement was created to promote a more effective national, regional and international response to this global problem and to support the work of the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons. The Project is co-directed by Walter Kälin, the Representative of the Secretary-General, and Elizabeth Ferris, Senior Fellow at the Brookings Institution.

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### Front cover photo:

School boys rehearse for a musical performance at an IDP camp in Alero District, northern Uganda, August 2006.  
Manoocher Deghati/IRIN

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# Introduction

by Francis Deng and Walter Kälin

## After twelve years as Co-Director of the Project on Internal Displacement at the Brookings Institution, Roberta Cohen retires at the end of 2006.

Roberta recounts that she arrived at the Brookings Institution in 1994 to an empty desk, wondering how to define an IDP. Today internal displacement is a fully-fledged field of study and operations. Roberta's contribution to this transformation cannot be underestimated.

Roberta has worked tirelessly to support our respective mandates as Representatives of the UN Secretary-General on Internal Displacement (Deng) and the Human Rights of IDPs (Kälin). She played a key role in steering the preparation of the Guiding Principles on Internal Displacement.<sup>1</sup> She has been at the forefront of applying the Principles through fundraising for their translation and dissemination, organising and speaking at countless seminars, conferences and workshops and lobbying within the UN system and with governments. She has placed IDPs on the agendas of national human rights institutions especially in Asia, hosted numerous meetings with NGOs and worked directly with IDPs themselves.

Roberta can be credited with defining a field of academic and intellectual study. She and her Brookings colleagues have established the case for IDPs as a category of concern, elaborated the concept of 'sovereignty as responsibility' and conducted research on topics ranging from peace processes to mortality rates. She has edited and authored or co-authored seminal academic texts on internal displacement, most significantly *Masses in Flight*<sup>2</sup> in 1998.

As befits a Senior Fellow at the Brookings Institution, Roberta has written numerous op-eds

and policy documents on issues around displacement, humanitarian interventions and aid. In recent years she has been at the forefront of Brookings work on Darfur and North Korea. Referring to



Roberta Cohen

Roberta's retirement and new status as non-resident Senior Fellow, the Brookings president, Strobe Talbott, insists that the 'retired' remains in quotation marks and the 'non' in non-resident be diminished. "Roberta's contribution to Brookings and the world is immense and must continue."

That so many of the senior policy makers and leading academic thinkers in the field of internal displacement have contributed to this special issue of FMR is in itself testament to the far-reaching impact of Roberta's work. But it is also indicative of the scale of internal displacement. Today, there are at

least 24 million people internally displaced by conflict alone and many millions more have been displaced by development projects and natural disasters. It also reflects the new willingness of the international community to consider intervening to protect the rights of IDPs, confirming the principle of the 'responsibility to protect' agreed by 192 governments at the World Summit in 2005.<sup>3</sup> Another reason is that an increasing number of countries are now developing their own national laws and policies on IDPs and significant institutional changes are underway within the UN system.

This special issue therefore provides the opportunity not just to commemorate Roberta's work but also to take stock. The articles explore lessons learned from trying to apply the Guiding Principles, the implications of institutional changes for the protection of IDPs and opportunities and challenges for putting the protection of IDPs into practice. The authors remind us how much progress has been made and the importance of Roberta's contribution. However, they also warn us how much remains to be done. In different ways the two of us continue to

advocate for the rights of IDPs. We count on Roberta's continued support and look forward to working with her successor, Elizabeth Ferris.

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1. [www.brook.edu/tp/projects/idp/articles/guiding.htm](http://www.brook.edu/tp/projects/idp/articles/guiding.htm)

2. [www.brook.edu/press/books/massflgt.htm](http://www.brook.edu/press/books/massflgt.htm)

3. [www.un.org/summit2005/](http://www.un.org/summit2005/)

# A personal tribute to Roberta Cohen

by Francis M Deng

**Although I have received generous praise over the years for my efforts on behalf of the world's internally displaced persons as representative of the UN Secretary-General on the issue, I say, without hesitation, that without Roberta Cohen I could not have done what I did.**

It is with great pleasure that I take this opportunity to pay tribute to a dear friend and a close partner in the promotion of international response to the global crisis of internal displacement. Roberta helped pave the way for my appointment when she, representing the Refugee Policy Group (an

Roberta Cohen was critical to this complex, precarious, creative and, I believe, constructive complementarity of diverse approaches.

Our personalities were different but complementary. Anyone with a fraction of wisdom would not want to be on the opposite side from

Roberta, and I was fortunate enough to be naturally on her side and she on mine. Her challenge to my acknowledged tendency to favour a diplomatic, constructive engagement with governments contrasted with her inclination to be a more aggressive defender of human rights. This was always a

source of creative tension between us but we both realised the value of our complementarity and, over the years, inched toward one another.

Roberta Cohen played a critical role in mobilising the legal team that developed the Guiding Principles on Internal Displacement. Although she is not trained as a lawyer, she not only organised the meetings of the team but actively participated in the discussion of the substantive issues involved. Roberta was also actively engaged in the appraisal and development of international

institutional arrangements in response to internal displacement. She was also keenly aware of the role that regional organisations could play and worked diligently to foster our cooperation with them. And in line with her NGO background, she was an effective mobiliser of civil society for the cause. In addition, Roberta demonstrated her capacity for conducting and overseeing research not only through her pivotal contribution to our two-volume study – *Masses in Flight*<sup>2</sup> and *Forsaken People*<sup>3</sup> – and her own numerous articles but also by commissioning and supervising a series of studies on a variety of strategic topics and issues.

The space allotted for this brief tribute does not allow me to do justice to Roberta's contribution to all aspects of our work on the mandate. I was delighted that as Co-Director of the Brookings-Bern Project on Internal Displacement, Roberta continued to work with my successor, Professor Walter Kälin, the Secretary-General's Representative on the Human Rights of Internally Displaced Persons who had played a key role in developing the Guiding Principles as chairman of the legal team that developed them.

I will remain forever grateful to Roberta Cohen for her contribution to our efforts on behalf of the world's internally displaced, a venture in which we were full partners. Perhaps Richard Holbrook, the former US Ambassador to the United Nations, best expressed the bond between Roberta and me when he introduced us as Mr and Mrs IDPs. Our spouses concurred.

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1. [www.unhcr.ch/html/menu2/2/chr.htm](http://www.unhcr.ch/html/menu2/2/chr.htm)  
2. [www.brook.edu/press/books/massflt.htm](http://www.brook.edu/press/books/massflt.htm)  
3. <http://brookings.nap.edu/books/0815715137/html/index.html>



EC/ECHO/Peter Holisworth

independent centre of policy analysis and research on refugee issues), collaborated with several other NGOs to successfully lobby the UN Human Rights Commission<sup>1</sup> to place internal displacement on its agenda and to create a mechanism for international response to the crisis. The agreement on the appointment of a representative of the Secretary-General was a compromise, the lowest common denominator. However, in discharging the responsibilities of the mandate we were able to push the envelope diplomatically, cautiously, but, paradoxically, also aggressively.

IDPs in Darfur.

# The future of the Guiding Principles on Internal Displacement

by Walter Kälin

**The creation of the mandate of the Representative of the Secretary General on Internal Displacement in 1992 and the adoption of the Guiding Principles on Internal Displacement in 1998 would not have happened without Roberta Cohen's vision, dedication and persistence.**

These events were crucial steps in the history of human rights protection because they recognised IDPs as a vulnerable group in need of specific human rights protection. The Guiding Principles, in particular, have become the authoritative text on the human rights of IDPs. What is their present standing and how should we see their future?

As a document originally prepared by a team of experts in close consultation with the concerned agencies and organisations and then submitted to the Human Rights Commission<sup>1</sup> but never negotiated by governments, the Guiding Principles are, in strict legal terms, not binding upon states. When the Principles were presented to the then UN Commission on Human Rights, governments were reluctant to do more than simply take note of them. Despite states' reluctance to endorse them, it was always clear that the Guiding Principles have an authoritative character as they are based upon, and reflect or restate, guarantees contained in international human rights and humanitarian law that respond to the specific needs of IDPs. Thus, they draw their authority not from the process of elaboration but from the fact that their content is solidly grounded in existing international law. In fact, it is possible to cite for almost every principle a multitude of legal provisions which provided the drafters with strong normative guidance.<sup>2</sup> Even where language was used that was not to be found in existing treaty law, no new law in the strict sense of the word was created in most cases but existing norms were restated in more specific language.

## A bottom-up process of consensus-building

How did it come about that states were able to overcome their initial reluctance to endorse the Guiding Principles? The answer to this question lies in the bottom-up process of consensus building during the past eight years.

The ultimate foundation of international law is consensus. This not only lies at the heart of treaty law but is also the hallmark of international customary law with its two constitutive elements of uniform state practice and *opinio iuris* – the conviction that the custom rests on a legal obligation. Consensus is also the foundation of so-called soft law, to which the Guiding Principles belong, i.e. provisions that are not binding in a strict legal sense but which, nevertheless, provide authoritative guidance on the obligations of states in a specific area.

Evidence for the acceptance of the Guiding Principles can be found at all levels of the international community. Several governments – in particular Angola, Burundi, Liberia, Uganda, Peru and Turkey – have made explicit references to the Guiding Principles in their strategies, policies or even laws on internal displacement.<sup>3</sup> Others are following their lead and are in the process of developing or revising their displacement-related laws and policies.

Regional intergovernmental organisations have rallied behind the Guiding Principles:

- The Organisation of African Unity (now the African Union) has formally acknowledged the principles.
- The Economic Community of West African States (ECOWAS) has called on its member states to disseminate and apply them.
- A ministerial declaration of the Intergovernmental Authority on Development (IGAD) has called the principles a “useful tool” in development of national policies on internal displacement.
- The Organisation for Security and Cooperation in Europe (OSCE) has recognised the principles as “a useful framework” in addressing internal displacement.
- The Parliamentary Assembly of the Council of Europe has urged member states to incorporate the principles into their domestic laws, and the Committee of Ministers of the Council of Europe recently stressed its “commitment to the spirit and provisions of the UN Guiding Principles and its willingness to implement them in the member states’ national legislation and policy.”

At the universal level, not only some of the Special Procedures of the former UN Human Rights Commission (now the Human Rights Council) but in recent times also the treaty bodies – the expert committees monitoring the implementation of the Covenant on Civil and Political Rights or the Convention on the Rights of the Child and other UN human rights conventions – have called on states to respect the Guiding Principles.

All these developments culminated in September 2005 when heads of state assembled in New York for the World Summit unanimously adopted





UNHCR/A. Holmann

IDPs in  
Bilasovar  
5 camp,  
Aghjabedi  
District,  
Azerbaijan.

language according to which they “recognise the Guiding Principles on Internal Displacement as an important international framework for the protection of internally displaced persons and resolve to take effective measures to increase the protection of internally displaced persons.”<sup>4</sup>

### Should we advocate for a binding UN treaty?

The standing of the Guiding Principles is firmly established. However, more must be done to strengthen the normative framework for the protection of the human rights of the displaced. Some have suggested that a way to do so is to enshrine the Guiding Principles in a UN treaty. I doubt that this would be the best way to proceed. Such an endeavour would only be successful if there were a worldwide consensus that the Principles should be made legally binding at the universal level. Negotiations on the 2005 World Summit Outcome document have shown that while the Guiding Principles are welcomed by all governments, many among them were not ready to explicitly recognise their legal character. The idea that internal displacement is essentially an ‘internal affair’ remains strong in many parts of the world. In this political environment it is better to continue to build consensus from the bottom up.

First and foremost, it is essential to continue, as Secretary-General Kofi Annan stressed in 2005, to promote the adoption of principles through national legislation and thus to

incorporate them at the domestic level. In order to support governments to do so, I am currently preparing a manual for national law- and policy-makers which will be largely based on good practices from throughout the world and should be published in late 2007 or early 2008.

At the regional level the time may have come to move from mere declarations to binding treaty law. Africa has taken the lead here. The draft Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons – which would establish standards for the better protection of IDPs and oblige states to incorporate the Guiding Principles into their domestic law – is ready for adoption. Similarly, the African Union is in the process of drafting a binding instrument on internal displacement which would provide a unique chance to reinforce the legal protection of IDPs in line with the Guiding Principles.

Another interesting perspective would be the elaboration of additional protocols to regional human rights conventions that would focus on incorporating those principles into the regional human rights law that are not, or only implicitly, covered by the African, Inter-American and European human rights charters and conventions. Such principles include, inter alia, Principle 1(1), stating that internally displaced persons “shall not be discriminated against in the enjoyment of any rights or freedoms on the ground that they are internally displaced”, Principle 6 on the prohibition of arbitrary displacement, Principle 7 on the modalities of (lawful) displacement, Principle 9 on the protection of indigenous peoples, minorities peasants, pastoralists and other groups with a special dependency on or attachment to their lands, Principle 12(2) on confinement in camps, Principle 16 on missing

persons, Principle 15 on the right to seek safety in another part of the country or abroad and to be protected against forcible return to situations of danger, Principle 20(2) on documents, and Principles 28 on the right to freely choose between voluntary return in safety and with dignity, local integration or resettlement in another part of the country. The added value of such protocols would lie in the fact that IDPs could access the individual complaints procedures more easily and allow the regional human rights courts to develop an IDP-specific body of jurisprudence.

At the universal level, the UN special procedures and treaty bodies should enhance the use of the Guiding Principles by more regularly invoking them when addressing situations of internal displacement in countries scrutinised by them.

All these efforts may ultimately lead to the recognition that the Guiding Principles should be transformed into a universal convention on the protection of IDPs or even that they should be recognised as an expression of international customary law. This would be binding upon all countries regardless of whether they have incorporated the Principles into domestic law or ratified regional instruments that might be adopted in the future.

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1. For the drafting history of the Guiding Principles see e.g., Roberta Cohen, ‘The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting’, *Global Governance* 10 (2004), 459–480, at 460–465; Simon Bagshaw, *Developing a Normative Framework for the Protection of Internally Displaced Persons*, New York 2005; and Thomas G. Weiss/David A. Korn, *Internal Displacement – Conceptualization and its consequences*, London and New York 2006, at 55–70.

2. See Walter Kälin, *Guiding Principles on Internal Displacement, Annotations*, Washington D.C. 2000, highlighting in detail the legal basis for each of the Principles.

3. For more information about recent progress, see [www.brook.edu/fp/projects/idp/idp\\_policies.htm](http://www.brook.edu/fp/projects/idp/idp_policies.htm) and <http://refugeelaw.geh.ox.ac.uk/pdfs/chaloka-beyani-working-paper-april-2006.pdf>

4. 2005 World Summit Outcome, UN Doc A/60/L.1, para. 132.

# Placing IDPs on the international agenda: lessons learned

by Petter F Wille

**The issue of internally displaced persons is highly sensitive, with potential to trigger deep divisions among states. And yet controversy has been minimised. How has this been possible?**

In 1992 the Commission on Human Rights (CHR) authorised the UN Secretary-General to appoint a representative on the issue of internal displacement. The mandate was to explore “views and information from all Governments on the human rights issues related to internally displaced persons, including an examination of existing international human rights, humanitarian and refugee law and standards and their applicability to the protection of and relief assistance to internally displaced persons.” This was the starting point for a mandate which has achieved results that go far beyond the norm for the UN system. The mandate has become an institution that plays a crucial and catalytic role addressing one of the most pressing issues facing the international community.

At a seminar held in Oslo in 2001<sup>1</sup> the situation of IDPs was described by using the Norwegian expression “to fall between two chairs”, our equivalent of the English phrase “to fall between the cracks”. IDPs are often let down by their own governments who are meant to protect them from being displaced. Unlike refugees, they do not have an international organisation to deal with their plight. The basic principle of state sovereignty limits the ability of the international community to provide them with assistance and protection.

Human rights work in the UN has become increasingly difficult. The final sessions of the now-disbanded CHR were, at times, bitter. There are many who argue that protection of ‘national sovereignty’ should take precedence over the promotion and protection of human rights and fundamental freedoms. Supporters of the commission were driven onto the defensive. We have seen a worrying

North/South divide and divisions both between and within regional groups. In a closing statement to one of its final sessions, Mary Robinson, the former UN High Commissioner for Human Rights, regretted the divisive nature of commission debates and votes and referred to the concerns voiced by human rights movements that increased politicisation of discussions had been to the detriment of human rights.

## New hopes

In April 2006 the UN General Assembly voted to replace the Commission with a new Human Rights Council.<sup>2</sup> This was a decision of historic significance. While tensions from the former CHR remain, many member states are now committed to giving the council a chance to start anew to meet the challenge of promoting and protecting human rights. There are several encouraging elements in the council’s mandate. One test of these commitments will be the review of special procedures which the council will undertake within its first year. These special procedures are one of the most important and perhaps the most underrated activities in the UN human rights field. They constitute a unique link between governments, national institutions, NGOs and civil society. They provide valuable analyses of key human rights issues and can also serve as a mechanism of last resort for victims. The outcome of this review of these procedures will not only be of crucial importance for the future of the mandate on human rights and IDPs but for the whole legitimacy of the Council of Human Rights.

One of the reasons why the mandate on IDPs has bucked the trend towards

political division and rancour is the skill of Francis Deng, Walter Kälin and Roberta Cohen. Roberta’s contribution has been pivotal in working to persuade countries with serious IDP problems that it is in their national interest to cooperate with the mandate rather than to confront it. Between them, Francis Deng and Walter Kälin have visited more than 25 countries, some – including Sudan – on more than one occasion. There is a growing acceptance among states that internal displacement is not only an internal matter but also an issue of international concern. Governments are realising that as conflicts and internal displacement spill across borders entire regions can be thrown into turmoil if root causes of internal displacement are not addressed. Encouragingly, IDPs no longer fall between the mandates of international agencies to the extent they used to.

Crucial to these successes has been the emphasis on building consensus around resolutions on IDPs in the CHR/Human Rights Council as well as in the General Assembly. Norway has played, and will continue to play, a key role in the General Assembly while Austria has this responsibility in the Human Rights Council. The main sponsors of IDP proposals have deliberately tried to avoid needless politicisation and sterile controversies, seeking instead to move forward little by little without too much noise. For the most part, this patient approach has led to consensual adoption of resolutions.

Francis Deng and Walter Kälin deserve support and admiration for the way they have conceptualised their role as catalysts in the international system. They have:

- developed an appropriate normative framework for responding to the protection and assistance needs of IDP

- fostered effective institutional arrangements at the international and regional levels
- drawn attention to specific displacement situations through well-prepared country missions
- conducted research into the many aspects of internal displacement.

An important contribution has been made by the Norwegian Refugee Council and its Geneva-based Internal Displacement Monitoring Centre. The IDMC's online database

provides comprehensive and regularly updated information and analysis on internal displacement, contributing to improved national and international capacities to protect and assist IDPs around the world.<sup>3</sup>

We have reason to celebrate the progress which has been made since the mandate was created. There is now wider recognition of the need for a more comprehensive international system. However, much remains to be done, not least to get a more reliable system that can more predictably provide

IDPS with both protection and assistance. This is one of the biggest challenges facing the international community in the years ahead.

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1. See FMR supplement [www.fmreview.org/pdf/osloidp.pdf](http://www.fmreview.org/pdf/osloidp.pdf)

2. [www.ohchr.org/english/bodies/hrcouncil](http://www.ohchr.org/english/bodies/hrcouncil)

3. See article by Elisabeth Rasmusson on page 16

## I first met Roberta...

by Maria Stavropoulou

*Roberta Cohen introduces discussion on Darfur between Jean-Marie Guéhenno, UN Under Secretary-General for Peacekeeping and Andrew Natsios, US Presidential Special Envoy for Sudan, 20 November 2006.'*

I first met Roberta one afternoon in late 1992, when Francis Deng and she came to the Harvard Human Rights Programme, looking for researchers to help them begin a legal analysis of the rights of IDPs. She and Francis were already soliciting partnerships for this legal research, which, after surprisingly few years, turned into the Compilation and Analysis of Legal Norms and shortly afterwards the Guiding Principles on Internal Displacement.

About a year later I started working at the then UN Centre for Human Rights as Francis Deng's professional assistant. I think Francis will not mind me saying this, but over the following couple of years I must have spent much more time with Roberta on the phone than with him. Roberta had a very clear vision about the mandate. She wanted a legal framework in place, she wanted the UN to be engaged, she wanted to have partners in the cause, and she needed

donors. She managed to mobilise even the most resistant of them all.

Roberta is a persistent lobbyist (some diplomats must have tried to avoid her at times), a merciless editor of reports and texts and a relentless advocate. At the same time she is a good listener, a generous mentor for young professionals and a great supporter of the human rights mandate on internally displaced persons. Her perfectionism,

coupled with extraordinary energy, instigated most of the initiatives, projects and activities described in this FMR special issue. Roberta never gave up, and I suspect she will not give up even once she has retired.

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# Humanitarian reform and new institutional responses

by Dennis McNamara

**In 1998, in their groundbreaking book *Masses in Flight*, Roberta Cohen and Francis Deng noted the weakness of inter-agency coordination, lack of clear institutional responsibility for IDPs and uneven response to their needs. Has anything changed?**

The short answer to this is yes. The more accurate answer is yes – in the last year or so, in quite dramatic terms – but with some way still to go. The sorts of deficiencies identified by Cohen and Deng which plagued past international responses will, we hope, soon be much less apparent.

The institutional response to internal displacement has long been characterised as a ‘collaborative’ one involving a broad range of UN and non-UN, governmental and non-governmental actors working in a transparent and cooperative manner to address the needs of IDPs. It is a response that depends on effective leadership and the presence of actors with the necessary expertise, capacity and resources to meet the different needs of the displaced. It requires the establishment of structures to ensure effective communication and transparent decision making, adequate resources to guarantee a comprehensive response (emergency as well as longer-term solutions and recovery needs), avoiding gaps and overlaps and clear lines of responsibility and accountability. And it must take account of the broader humanitarian context and the need to also address the needs of other vulnerable individuals, groups and communities.

## Revitalising the collaborative response

Implementation of the collaborative response has not been without its problems. Various efforts have been made to overcome them. In 1997 the UN assigned overall responsibility for coordinating the protection and assistance of the internally displaced

(those described as ‘falling through the gaps’) to the Emergency Relief Coordinator (ERC), the senior UN humanitarian official. This was followed by increased and regular focus on internal displacement in the UN’s Inter-Agency Standing Committee (IASC) – the primary mechanism for inter-agency coordination of humanitarian assistance which brings together the key UN and non-UN partners.<sup>1</sup> In December 1999 the IASC adopted a policy expressly for the protection of IDPs that sought to spell out the process for implementing the collaborative response, both at headquarters and in the field.

Such developments notwithstanding, there was ongoing criticism of the collaborative response, most memorably perhaps from the then US Ambassador to the UN, Richard Holbrooke. In response, the IASC established a Senior Network on Internal Displacement which recommended establishment of a distinct inter-agency entity charged with providing technical advice and support at both headquarters and the field in order to facilitate improved implementation of the collaborative response. In January 2002 this resulted in the establishment within the UN Office for the Coordination of Humanitarian Affairs (OCHA)<sup>2</sup> of the Internal Displacement Unit – re-named in July 2004 as the Internal Displacement Division (IDD).<sup>3</sup>

The Unit undertook two initiatives in 2003 – a Protection Survey carried out in association with the Brookings Project on Internal Displacement<sup>4</sup> and the IDP Response Matrix (a survey to determine who was doing what, where and why).<sup>5</sup> These found

significant problems remained in the implementation of the collaborative response. The studies identified the need for increased accountability among both Humanitarian and Resident Coordinators (HCs and/or RCs) – the in-country UN officials charged with coordinating the UN’s response to crises of internal displacement – and among the different operational agencies involved. The approach of country teams to assessment and strategy making required improvement. The decision-making process within country teams leading to a division of labour needed to be more transparent and predictable. In response, a set of practical tools was developed in the form of an IASC Policy Package adopted in September 2004.<sup>6</sup>

## Beyond tweaking to fundamental reform

Although these different initiatives to strengthen the collaborative response resulted in varying degrees of success, ongoing efforts by the IDD to promote implementation of the collaborative response and improve protection and assistance for IDPs in eight identified priority countries revealed that weaknesses and gaps remained. There was particular concern about the absence of predictable leadership and accountability in key sectors or areas of response. Guidance was not being implemented effectively, agencies continued to pick and choose areas of involvement and HCs were frequently unable to identify reliable actors in key sectors. This led to ad hoc and under-resourced responses. Analysis from the priority countries identified particular problems in the areas of camp management, emergency shelter, return, reintegration and recovery and the cross-cutting issue of protection.

In June 2005 the IDD tabled these concerns at the IASC Working Group – a forum for heads of the emergency programmes of the IASC agencies.

We recommended that agreement be reached at the institutional level on assigning specific agency accountability for these 'problem' sectors. The same concerns fed into the Humanitarian Response Review (HRR) commissioned by the ERC, Jan Egeland, in response to deficiencies in the international response to the Darfur crisis. The HRR set out to assess the humanitarian response capacities of the UN, NGOs, Red Cross/Red Crescent Movement and other key humanitarian actors including the International Organization for Migration (IOM) and to identify gaps. The HRR was tasked to identify factors that have hindered the speed and effectiveness of the humanitarian response and to ensure that steps were taken to improve the timeliness and impact of future interventions.<sup>7</sup>

The HRR found that in certain sectors or areas of activity it was difficult to mobilise adequate resources, material inputs and sufficient levels of expertise in the timeframe appropriate to the needs of the crisis. Nine clusters of particular concern were identified by the HRR, including those identified by IDD: camp coordination and management; emergency shelter; telecommunications; health; logistics; nutrition; protection; early recovery; and water and sanitation.

Moved forward by active leadership from Jan Egeland, the IASC undertook a substantial reform of the humanitarian response system. The reform was not confined to IDPs but sought to address issues related to more adequate, timely and flexible humanitarian financing, in particular through a revitalised Central Emergency Response Fund (CERF) approved by the General Assembly in December 2005.<sup>8</sup> It also sought to strengthen humanitarian coordination and leadership by improving the Humanitarian Coordinator system. While both these aspects of the reform will have an impact on the response to IDP crises, the reform's emphasis on more predictable and sufficient humanitarian response capacity through the application of the so-called 'cluster approach' is particularly significant.

The IASC established Working Groups for each of the nine

clusters identified by the HRR in order to: discuss designating a lead agency for each cluster on a global basis; outline overall cluster requirements and the corresponding roles and responsibilities in the cluster and for the cluster lead; develop recommendations for improving the predictability, speed and effectiveness of the response in the sector; and undertake a preliminary mapping of the current response capacities and gaps.

The IASC agreed in September to the designation of a lead agency for each of the clusters where critical gaps had been identified. Of particular importance to the response to internal displacement, this included the designation of UNHCR as cluster lead for protection, emergency shelter and camp management and coordination in situations of complex emergencies and UNDP for early recovery. In disaster situations, camp coordination and camp management were the responsibility of the IOM and emergency shelter rests with IFRC. Protection in disaster settings and in other situations requiring a protection response would be decided through consultation among the three UN protection-mandated agencies (UNHCR, OHCHR and UNICEF) on a case-by-case basis, with one of the three taking the lead in a given context.

The cluster approach is essentially about transforming a 'may respond' into a 'must respond' attitude. It is about achieving more strategic responses and improved prioritisation of available resources by clarifying the division of labour among organisations, better defining their roles and responsibilities within the different sectors of the response and providing the HC with a 'first port of call' and 'provider of last resort'. The approach is currently being rolled out in four countries: the Democratic Republic of Congo, Liberia, Somalia and Uganda. It was also activated in respect of new emergency situations, namely, Pakistan (following the earthquake in October 2005), Indonesia and Lebanon.

The cluster approach may not constitute as radical a reform as, for instance, the establishment of a new UN agency with a specific mandate for protecting and assisting IDPs.

However, its potential for fostering a more predictable, accountable, timely and ultimately more effective international response to the needs of the internally displaced should not be underestimated. Initial signs in the field are encouraging. UNHCR's increased engagement in the protection of displaced populations is apparent in Uganda and DRC, countries where its involvement had previously been almost exclusively focused on refugees.

### Will the cluster approach work?

Serious challenges remain before we can expect to see real results from the cluster approach:<sup>9</sup>

- Governments, particularly donors, must adequately fund the humanitarian reform and meet the significant additional costs at global level and at field level – where such key areas as camp coordination, protection, HC induction and training have often been neglected.
- The Red Cross/Red Crescent Movement and NGOs need to recognise this as a genuine effort by the UN family to reach out, to become more predictable players and to engage in genuine partnerships with partner organisations on the front line of the response.
- UN agencies must rise to the biggest challenge: taking up these new responsibilities and delivering on them. This will require a significant cultural shift for many of the major UN agencies, including improved accountability and a greater effort to closely collaborate and cooperate with all partners.

We have come a long way. However, only through meeting these remaining challenges will the humanitarian community be in a position to provide precisely the sort of response that many millions of people, displaced and otherwise, struggling for survival in appalling conditions in disasters and emergencies around the globe, both deserve and should expect. Only then will we have really addressed

what Roberta Cohen once described as the “unconscionable situation” in which IDPs cannot expect predictable responses from the international community while refugees in similar situations almost automatically receive protection and assistance.

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1. [www.humanitarianinfo.org/iasc](http://www.humanitarianinfo.org/iasc)
2. <http://ochaonline.un.org>
3. [www.reliefweb.int/idp](http://www.reliefweb.int/idp)
4. [www.brookings.edu/fp/projects/idp/protection\\_survey.htm](http://www.brookings.edu/fp/projects/idp/protection_survey.htm)
5. [www.reliefweb.int/idp/docs/references/MatrixProp.pdf](http://www.reliefweb.int/idp/docs/references/MatrixProp.pdf)

6. [www.reliefweb.int/rw/lib.nsf/db900SID/LHON-68TERC/\\$FILE/Policy\\_Package\\_IASC\\_Sept\\_2004.pdf?OpenElement](http://www.reliefweb.int/rw/lib.nsf/db900SID/LHON-68TERC/$FILE/Policy_Package_IASC_Sept_2004.pdf?OpenElement)
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8. <http://ochaonline.un.org/webpage.asp?Page=2101>
9. See also T Morris ‘UNHCR, IDPs and clusters’, FMR25 [www.fmreview.org/FMRpdfs/FMR25/FMR2531.pdf](http://www.fmreview.org/FMRpdfs/FMR25/FMR2531.pdf)

# UNHCR’s role in IDP protection: opportunities and challenges

by Erika Feller

**Roberta Cohen has encouraged, cajoled and even shamed the UN into assuming a more effective role to protect IDPs. Throughout two decades of tireless advocacy she has consistently argued that UNHCR should be more engaged in IDP protection. Her hopes are now being realised.**

During the past year UNHCR has made a clear commitment to be a more predictable partner among humanitarian actors in its response to the protection, assistance and solutions needs of IDPs. UNHCR’s policy concerning engagement with IDPs has evolved from being one of “no, unless certain conditions are met” to “yes, unless specific conditions arise.”

## UNHCR’s evolving mandate

UNHCR’s involvement in IDP operations is not new, and dates back to engagement in Sudan in 1972. Over the years, UNHCR has extended its services to IDPs and today we are engaged in no fewer than 22 IDP operations, seven of which have adopted the recently-introduced ‘cluster approach’.<sup>1</sup>

UNHCR’s core mandate set out in its Statute<sup>2</sup> is to provide, on a non-political and humanitarian basis, international protection to refugees and seek permanent solutions for them. While the Statute makes no reference to IDPs, it recognises in Article 9 that the High Commissioner may also “engage in such activities ... as the General Assembly may

determine, within the limits of the resources placed at his disposal.” Based on this Article, a series of UN General Assembly Resolutions have acknowledged UNHCR’s particular humanitarian expertise and encouraged its involvement in situations of internal displacement.

The principal criteria governing the organisation’s involvement with IDPs are set out in Resolution 53/125 of December 1998, in which the General Assembly “reaffirms its support for the role of the Office of the High Commissioner in providing humanitarian assistance and protection to internally displaced persons, on the basis of specific requests from the Secretary-General or the competent organs of the United Nations and with the consent of the State concerned, taking into account the complementarities of the mandates and expertise of other relevant organisations, and emphasises that activities on behalf of internally displaced persons must not undermine the institution of asylum.”

The notion of ‘protection’ has been defined by the Inter-Agency Standing Committee (IASC) as a function that encompasses all activities aimed at obtaining full respect for the rights of

the individual, in accordance with the letter and the spirit of relevant bodies of law, including human rights, humanitarian and refugee law, and without discrimination of any kind.

Adding to this definition, UNHCR has stated that “protection is a responsibility entailing the restoration of the most basic rights to the people, not least the right to life, to not suffer torture or discrimination, to respect for one’s dignity and the preservation of one’s family. Protection is also about creating an enabling environment so that these and other rights have a reasonable chance of being enjoyed, pending a durable solution to the problems at issue.”

## Who protects IDPs?

The Guiding Principles on Internal Displacement, to which Roberta Cohen has made such an important contribution, state that “national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.” Even so, there has in recent years been a growing recognition of the international community’s collective and complementary protection responsibility in situations where states are unable or unwilling to safeguard the rights of their citizens.

The role of UNHCR and other humanitarian actors in situations of



internal displacement almost always demands a delicate balancing act, encouraging and assisting states to assume responsibility for the protection of their citizens while at the same time holding them to account and substituting for them when they fail to fulfill their obligations. The 'cluster approach' now being introduced in situations of internal displacement and the 'collaborative approach' that preceded it have both been formulated as a means of operationalising the notion of a 'responsibility to protect'.

While such approaches should enable UNHCR and its partners to generate new synergies and complementarities, they also raise important challenges of inter-agency cooperation and coordination. In refugee situations, UNHCR's Statute enables the organisation to assume a leading role and to coordinate the activities of other actors. In situations of internal displacement, however, the development of a protection strategy requires consensus among a number of protection actors, whose mandates, understanding of protection and working methods may be somewhat different. In such circumstances, there is a need to ensure that the distribution of protection responsibilities does not lead to contradictory approaches or weaken accountability.

The exact scope of UNHCR's evolving role is also a subject of continuing discussion. UNHCR has made a commitment to act as a 'cluster lead' in the three areas of protection, camp management and coordination and emergency shelter. This is not only in relation to conflict-generated IDPs but also when the need arises vis-à-vis other affected populations, including people living in IDP-populated areas and areas of IDP return. Some organisations do not consider the scope of UNHCR engagement to be inclusive enough, and have argued that in countries such as the Democratic Republic of Congo or Somalia the international community's protection response should address the human rights of the civilian population as a whole. UNHCR, however, has maintained that the aim of the humanitarian reform process is to fill gaps in existing responses, that broader human

rights issues are the responsibility of the UN High Commissioner for Human Rights and that civilian victims of violence fall within the competence of the International Committee of the Red Cross.

### IDP and refugee protection

There has been a longstanding discussion of the relationship between refugee and IDP protection. In legal terms, much of that discussion has focused on the fact that refugees are to be found outside their country of origin and have a distinct, internationally recognised status while IDPs remain within their own state and are entitled to enjoy the same rights as other citizens. In practical terms, refugees and IDPs are confronted by many of the same threats and problems: lack of adequate shelter, food, water, sanitation and health care; risk of sexual and gender-based violence; vulnerability to human smuggling and trafficking; and inadequate access to justice.

In other respects, however, there is evidence to suggest that certain human rights violations are particularly widespread in the context of internal displacement. These include forced movement, including forced relocation and return; restrictions on freedom of movement; violations of land, housing and property rights; and forcible recruitment to the armed forces and militia groups. Such risks are especially evident in situations of ethnic cleansing in which the members of certain communities are deliberately expelled in order to further the political, military and territorial objectives of the governmental or non-state actors responsible for their displacement.

The operational contexts of IDP and refugee protection are not identical. IDPs are frequently to be found in close proximity to areas of armed conflict and ongoing violence. Combatants and political actors are often hostile to the presence of humanitarian personnel. IDPs themselves may be widely dispersed or in hiding, and may be reluctant to identify themselves because of a fear that they will be the target of further human rights violations.

### Approaches to protection

IASC and UNHCR definitions of protection have a number of important characteristics which underpin UNHCR's efforts to plan, design and deliver protection for IDPs. They emphasise the inter-relatedness of the three bodies of law (human rights, humanitarian and refugee law) which must be applied in a complementary manner to ensure the greatest benefit possible for IDPs and affected populations. They both highlight the importance of non-discrimination and equality, including the need for the effective mainstreaming of gender, age and diversity considerations in all protection activities. The notion of IDP protection employed by UNHCR recognises the interdependence of law and practice. National legislation which recognises and respects the rights of IDPs and other citizens is of limited value unless those people are able to enjoy and exercise those rights in a practical manner. At the same time, UNHCR considers that the rights and entitlements enjoyed by citizens must be effectively institutionalised in a country's legal and judicial system, rather than being granted at the whim of the state and its local representatives.

### IDP protection and asylum

A protection principle espoused by UNHCR is that the organisation's involvement in situations of internal displacement must not undermine the institution of asylum or compromise the right of refugees to seek and enjoy asylum in another state. UNHCR is concerned that our leadership of, or participation in, a collaborative or cluster-based response may have negative outcomes where:

- involvement might constitute or contribute to a strategy that is intended to contain displaced persons within the borders of their own country
- there is a risk that countries of asylum may renounce their protection obligations toward refugees and asylum seekers, on the basis that the UN response in the country of origin provides them with an 'internal flight alternative'

- UNHCR's impartiality would be negatively impacted, to the extent that humanitarian access to refugee populations would be jeopardised
- UNHCR's involvement with IDPs and affected populations would compromise its relationships with host governments or parties to a conflict to such an extent it would affect our activities for refugees
- an involvement with IDPs within a collaborative inter-agency framework could lead to a conclusion or an interpretation by countries of asylum concerning the applicability of Article 1D of the 1951 Refugee Convention, which states that the Convention shall not apply to persons who are receiving protection or assistance from UN agencies other than UNHCR.

In order to ensure that UNHCR's involvement with IDPs does not compromise the institution of asylum, a careful inquiry and decision-making process will be required. It is possible that an initial and positive determination with regard to UNHCR's involvement

might be obviated by a change of circumstances, requiring the organisation to withdraw from an IDP operation. Anticipating the possibility of such a scenario, the IASC has endorsed a mechanism within the cluster leadership approach to ensure the timely identification of another agency to assume a protection leadership role.

The establishment of this mechanism does, however, leave at least two important questions unanswered. If UNHCR decides not to get involved in or to withdraw from an IDP situation, is there a risk that the involvement of another UN agency may undermine the institution of asylum? And to what extent will UNHCR be able to withdraw from an IDP operation it has established without endangering its protection role in relation to refugees living in the same country?

## Conclusion

With the introduction of the cluster approach, UNHCR, the UN system and the broader

humanitarian community have made a commitment to improve the predictability and effectiveness of their response to the needs of internally displaced populations and affected communities. That objective has not yet been attained. There continue to be important gaps – financial, institutional, operational and political – in the international community's response to the issue of internal displacement. In seeking to fill those gaps UNHCR believes that primary emphasis must be placed on the practical task of providing better protection to IDPs. Improved needs assessment, coordination, monitoring and reporting mechanisms are certainly needed. However, they should not become a substitute for practical protection interventions that safeguard the rights, security and welfare of the internally displaced.

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1. See previous article by Dennis McNamara and also T Morris 'UNHCR, IDPs and clusters', FMR25 [www.fmreview.org/FMRpdfs/FMR25/FMR2531.pdf](http://www.fmreview.org/FMRpdfs/FMR25/FMR2531.pdf)
2. [www1.umn.edu/humanrts/instree/v3sunhcr.htm](http://www1.umn.edu/humanrts/instree/v3sunhcr.htm)

*Lologo transit camp for IDPs, south Sudan, September 2006.*



## Providing capacity to do protection: ProCap

Reviews of humanitarian response have highlighted protection capacity as a major gap. A particular challenge has been rapid deployment of experienced protection staff to support the UN protection response for IDPs and other vulnerable groups in emergencies and complex crises.

To fill this gap and support the goals of the Global Protection Cluster<sup>1</sup>, an inter-agency Protection Capacity (ProCap) project has been developed to respond to gaps and needs in protection response in three priority areas:

- providing surge protection capacity through the deployment of senior protection experts on short-term missions to support and strengthen the UN protection response
- increasing the size and diversity of protection profiles in NGO standby rosters
- building protection knowledge and skills among protection officers in standby rosters through inter-agency training workshops, practitioner exchange and dissemination of protection tools.

A small core team of Senior Protection Officers (SPOs) – known as ProCap Tier I – are ready to provide additional emergency capacity through permanent rotation to the field on short-term deployments of up to six months with UNHCR, UNICEF, the Office of the High Commissioner for Human Rights (OHCHR) or the Office for the Coordination of Humanitarian Affairs (OCHA). Their role is to strengthen the strategic and operational response of the UN Country Team and/or the Protection Cluster lead agency through the development of protection policies, mechanisms and strategies, advocacy and building in-country protection capacities (national as well as international).

In 2006, nine ProCap SPOs have undertaken 12 assignments in seven countries: DRC, Georgia, Lebanon, Pakistan, Somalia, Sudan and Uganda. Their contributions have included:

establishing field offices enabling a protection presence closer to communities at risk; supporting the formation and functioning of inter-agency protection networks; developing common tools and systems for protection monitoring and reporting; identifying protection gaps and trends; ensuring the integration of protection issues, including child rights and sexual violence, into humanitarian needs assessments and early recovery programming; monitoring returns; supporting the development of national policies and legislation to protect the rights of IDPs; promoting application of the Guiding Principles on Internal Displacement; designing advocacy strategies; and enhancing, including through training, the capacity of civil society, authorities and UN and international staff on protection issues and strategies for response.

In addition, ProCap Tier II is partnering with existing standby emergency rosters maintained by various NGOs – the Norwegian Refugee Council (NRC), the Danish Refugee Council (DRC), Save the Children Norway and Sweden, Austcare and RedR Australia – and is committed to increasing the protection capacity within their extensive rosters and working with them to facilitate the mapping and strategic deployment of this capacity. ProCap-trained personnel have been seconded, inter alia, to UN agencies in Lebanon, Liberia, Nepal, Pakistan, Somalia, Sudan and Timor Leste.

ProCap seeks not only to develop but also to diversify protection capacity, in particular by broadening geographic representation and linguistic skills among the pool of protection experts on standby. ProCap is committed to expanding its partnerships. Discussions are underway with a number of southern-based organisations and networks with interest and capability to contribute to bolstering standby protection capacity worldwide.

ProCap also promotes the building of protection knowledge and skills

through a variety of mechanisms. These include an inter-agency protection training package, developed together with the Centre for Humanitarian Dialogue<sup>2</sup>, designed to equip practitioners to undertake context-specific protection analysis, establish priorities, design and plan inter-agency responses, and conduct protection advocacy. The training package has already been provided to some 57 practitioners on existing standby emergency rosters. With a view to scaling-up, a training-of-trainers initiative is planned for early 2007.

A dedicated website, ProCap-Online<sup>3</sup>, is being finalised to facilitate mapping of protection capacity, timely matching of protection expertise with specific needs and support secondment of standby protection personnel to protection-mandated UN agencies. The site will provide an interactive forum for ProCap deployees to share and discuss protection challenges and strategies, contributing to the exchange and development of effective protection practices. For the broader humanitarian community, ProCap-Online will serve as an open-access resource of protection tools and reference material to support protection training, policy and practice.

ProCap is managed by an inter-agency Steering Committee comprising OHCHR, UNHCR, UNICEF, OCHA and an NGO representative. The ProCap Support Unit is hosted by OCHA's Internal Displacement Division, while NRC administers the Senior Protection Officers on behalf of ProCap. The project is funded through the generous support of Australia, Canada, Denmark, Norway, Sweden, the UK and the US.

*For further information, contact Belinda Holdsworth, ProCap Support Unit. Email: [holdsworth@un.org](mailto:holdsworth@un.org)*

1. UNHCR chairs the Protection cluster for conflict-generated IDPs. [www.humanitarianinfo.org/iasc/content/cluster/protection/default.asp?bodyID=29&publish=0](http://www.humanitarianinfo.org/iasc/content/cluster/protection/default.asp?bodyID=29&publish=0)

2. [www.hdcentre.org](http://www.hdcentre.org)

3. <http://ocha.unog.ch/ProCapOnline>

### Interested in joining the ProCap team?

ProCap welcomes applications for the core team of Senior Protection Officers, comprised of experts with

10-15 years of protection-related field experience and proven protection expertise, to serve on permanent (12 months minimum) rotation to the field. For more information, see [www.nrc.no](http://www.nrc.no)

Rosters of mid-level Protection Standby Experts (3-7 years experience) for short-term (3-6 months) deployment are maintained by NGO partners. For more information, see: <http://ocha.unog.ch/ProCapOnline/index.aspx?module=viewpage&pageid=becomingA>



# Protection of IDP women, children and youth

by Dale Buscher and Carolyn Makinson

**The regions of the world characterised by conflict and displacement have relatively high fertility rates and young populations. Women and children thus constitute around 80% of IDP populations. Their specific protection cannot be met without provision of key services.**

During conflict, flight and displacement, women and children are at heightened risk. They are more vulnerable to exploitation and abuse. Women and girls are often the systematic target of sexual violence, have special health needs that are often neglected and lack the protection formerly afforded by their families and communities. Children may be separated from those who care for them and put at risk of sexual abuse and exploitation and recruitment into armed forces. Their entire childhoods may be disrupted, with little access to education and few opportunities as they grow older to take on the usual roles and responsibilities of adulthood. While all these issues also affect refugees, research shows that internally displaced women and children usually fare even worse.

## Reproductive health

Prior to the 1990s, the reproductive health needs of women and adolescent girls were largely ignored in humanitarian settings. In 2004 the Inter-Agency Working Group (IAWG) on Reproductive Health in Refugee Situations<sup>1</sup> evaluated progress since the landmark International Conference on Population and Development in 1994. Their report found that basic reproductive health services in stable refugee settings were well established, although action against gender-based violence, HIV/AIDS services and safe motherhood interventions were still weak.<sup>2</sup> The evaluation team had much greater difficulty in obtaining data in IDP settings than in refugee settings, and concluded that services in IDP settings were severely lacking.

The Women's Commission for Refugee Women and Children has consistently urged humanitarian actors to undertake a pared-down set of activities, known as the Minimum Initial Service Package (MISP)<sup>3</sup>, which protect the lives and health of women and girls of reproductive age. The MISP activities prevent and manage the consequences of sexual violence, prevent excess neonatal and maternal mortality and morbidity, reduce HIV transmission, and lay the groundwork for comprehensive services to be implemented at a later date. Despite progress in stable settings, the evaluation showed that, in both refugee and IDP settings, the MISP was rarely implemented at the onset of an emergency.

## Gender-based violence

The latest issue of FMR<sup>4</sup> reflects increased international attention given to gender-based violence (GBV) in refugee, IDP and post-conflict settings. It includes discussion of the risks associated with firewood collection and underlines the close connection between GBV and the absence of opportunities for income generation in humanitarian settings. Traditional harmful practices such as early and forced marriage and female genital cutting are just some of the GBV protection risks faced by displaced girls. The Women's Commission has helped develop tools to allow humanitarian workers plan, implement and monitor programmes to prevent and respond to GBV.<sup>5</sup>

## Livelihoods

Lack of economic opportunities place women and adolescent girls in

an extremely vulnerable situation. Economically dependent on others, women and girls suffer domestic violence, trade their bodies for needed cash and commodities and are unable to realise their potential. The lack of livelihood options is far more prevalent in the situation of internal displacement than it is in refugee settings. Little attention has been given to viable income generation activities for IDPs, leaving women and adolescent girls marginalised and economically isolated.

## Education

Armed conflict around the world is one of the most formidable obstacles to education. Worldwide, approximately 120 million children are estimated to be out of school. More than half of these children – two-thirds of them girls – are living in countries engaged in or recovering from conflict. Many of those in areas of conflict are doubly disadvantaged by being refugees or internally displaced.<sup>6</sup>

A survey on education in emergencies carried out by the Women's Commission found that in just 10 countries with conflict-induced displacement in 2002, 27 million children had no access to formal schooling.<sup>7</sup> The vast majority of these (more than 90%) were IDPs. While attendance for all displaced children and youth was staggeringly low, the attendance and retention of displaced female students of all ages continued to lag significantly behind that of males.

Many factors exacerbate the lack of educational opportunities for IDP children and youth, even relative to refugees. The quality of education in IDP camps is generally much lower than the education provided by international agencies in refugee camps. More than one-third of all IDPs remain beyond the reach of UN assistance.



UNHCR/H. Craix

Soldiers escort IDP men and women from Douma camp, Sudan, to collect firewood.

Given that the majority of refugees and IDPs are now displaced for more than a decade, the need for schools and comprehensive education to be provided in the longer term is abundantly clear. Countries such as Afghanistan, Liberia and Sudan now face the challenge of reconstruction with generations of young people – both refugees and IDPs – who have had little access to formal or non-formal education and are, therefore, unable to meaningfully contribute to the rebuilding of their countries.

All children - including those affected by armed conflict and displacement – have the right to education. The

Women's Commission recently published a tool to help organisations working with refugees and IDPs to advocate on their behalf.<sup>8</sup> The UN Millennium Development Goals will not be attained if the needs of refugee and IDP children continue to be ignored. One important step in the realisation of the right to education is the creation of the Inter-Agency Network for Education in Emergencies (INEE), a global open network of NGOs, UN agencies, donors, practitioners, researchers and individuals from affected populations working together to promote access to quality education for all and establish minimum standards.<sup>9</sup>

## Conclusion

Protection of internally displaced women, children and youth is inextricably linked to providing what we all need for normality and well-being – health care, education and economic opportunities. While the protection concerns confronting these populations may be much broader

– physical security, access to adequate food and water, appropriate shelter, access to legal protection and a fair system of justice – interventions of the kind outlined here are vital. If they are not offered by the international community, displaced women and children will never be able to live in dignity or be adequately protected.

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1. [www.unfpa.org/emergencies/iawg/index.htm](http://www.unfpa.org/emergencies/iawg/index.htm)
2. [www.rhrc.org/resources/iawg](http://www.rhrc.org/resources/iawg)
3. [www.womenscommission.org/pdf/MISP\\_fact.pdf](http://www.womenscommission.org/pdf/MISP_fact.pdf)
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5. [www.womenscommission.org/reports/gbv\\_tools.shtml](http://www.womenscommission.org/reports/gbv_tools.shtml)
6. See FMR supplement 'Education & conflict: research, policy & practice', [www.fmreview.org/FMRpdfs/EducationSupplement/full.pdf](http://www.fmreview.org/FMRpdfs/EducationSupplement/full.pdf)
7. [www.womenscommission.org/pdf/ed\\_emerg.pdf](http://www.womenscommission.org/pdf/ed_emerg.pdf)
8. [www.womenscommission.org/pdf/right\\_to\\_ed.pdf](http://www.womenscommission.org/pdf/right_to_ed.pdf)
9. [www.ineesite.org/](http://www.ineesite.org/)

# Improving IDP data: prerequisite for more effective protection

by Elisabeth Rasmusson

**Information on the number, locations and demographic characteristics of IDPs is scarce and chronically unreliable. Lack of information is a key impediment to a more effective response to internal displacement crises.**

A few governments have registered IDPs in a comprehensive manner, most recently the government of Bosnia and Herzegovina with support from UNHCR. In Turkey the government is expected to release the results of a comprehensive IDP survey soon. However, for most countries affected by internal displacement only rough estimates are available. These often only cover parts of a country, or specific groups of IDPs. The official UN figure for Uganda until recently only included IDPs living in camps receiving food from the World

Food Programme. In Burma reliable estimates are only available for the more accessible east of the country. In several cases – particularly Colombia – there are conflicting estimates from government and civil society sources. In countries like Rwanda and Guatemala, estimates have not been updated for years after the authorities – prematurely – declared internal displacement as resolved.

The nature of internal displacement makes it difficult for governments or international organisations to register or otherwise determine the

number and circumstances of affected people. In the immediate aftermath of a natural disaster or outbreak of conflict, population movements may be difficult to trace because areas where IDPs have found refuge are difficult to access. IDPs who have fled to urban centres may have specific protection needs but are hard to distinguish from resident populations or economic migrants. It is often not easy to determine who is an IDP and who is not, or whether people have ceased to be IDPs. The question of when displacement ends can be particularly difficult to answer in protracted situations where internal displacement has continued for years or even decades. The Guiding Principles on Internal Displacement and a set of benchmarks of durable solutions currently being worked

out by the Brookings-Bern Project on Internal Displacement provide useful guidance – but grey areas remain.

National governments have a responsibility to collect IDP data but may be reluctant for political reasons to acknowledge the actual scale of internal displacement. Governments at times use inaccurate figures or even block attempts by international or national organisations to collect and publish more accurate information. Governments may try to hide an IDP crisis which they fear could expose and draw unwanted international attention to human rights violations, unresolved conflicts or erosion of state authority. However, other governments may wish to inflate the number of IDPs to attract more humanitarian aid or to mobilise international opinion against an internal or external adversary accused of being responsible for the displacements.

International organisations rarely see it as a priority to step in where governments are unwilling or unable to get an accurate picture of the scale and scope of an internal displacement situation. As there is no operational agency with a comprehensive mandate for IDPs, enumeration is often patchy. Determining country IDP figures falls within the overall responsibility of the UN's Resident or Humanitarian Coordinators. Under pressure from donors, some have tried but they often lack resources, knowledge of methodologies or agency support to enable them to do so.

### Why we need better IDP data

The availability of reliable information on IDP populations is crucial for improving the protection of IDPs. IDPs have particular vulnerabilities resulting from their displacement that distinguish them from other people affected by conflict or natural disasters, and therefore may require specific responses by governments, civil society or the international community. Only if IDPs are identified and quantified can the necessary responses be developed and implemented in a targeted and effective way.

At the very minimum the total number of IDPs and their geographical distribution should be determined in each country affected by internal displacement to the level of accuracy possible under prevailing circumstances. Wherever possible, more detailed demographic data should be gathered, including breakdowns by gender and age, and basic information on humanitarian and protection needs. Reliable country statistics on IDPs are needed in order to be able to analyse trends and better understand the causes and effects of displacement. This in turn is a precondition for effective advocacy aimed at improving responses to the global internal displacement crises, and to support efforts to prevent new displacements. Finally, without better data we will not be able to monitor the impact of the current humanitarian reform process.<sup>1</sup>

There are basic principles which should govern all IDP data collection exercises:

- **Inclusiveness:** Reliable information should be available on all IDPs, whether they are in camps, staying with host families or in other settlements or urban areas. Statistics should include those who have been forced to flee their homes by armed conflict, generalised violence and human rights violations, as well as those displaced by natural disasters and development projects. Attention should be paid not only to humanitarian emergencies but also to hidden or protracted displacement situations.
- **Protection:** It is important to remember that the availability of data can have serious implications for the safety of displaced individuals or groups. This can be the case where – as in Colombia – IDPs may choose anonymity to escape persecution by state authorities or armed groups who see IDPs as rebel sympathisers. In other situations it may not be in the best interest of IDPs to be identified as a special group as this could lead to resentment among the resident population. Singling out displaced populations for the purpose of aid delivery can increase their vulnerability to assaults and looting. It is

therefore crucial to conduct a thorough risk analysis at each stage of a data collection process.

- **Collaboration:** Whether organised by governments or the international community, data collection effort should involve all relevant stakeholders, including NGOs. Wherever possible, IDPs themselves should be engaged in the design and implementation of data collection.
- **Sustainability:** Efforts should be made to ensure that the data collected is regularly updated, for example through the establishment of a network of local organisations feeding new information on population movements or protection gaps back into a central database.

### Towards better IDP data

In order to improve the availability and quality of basic IDP data, the Norwegian Refugee Council's Internal Displacement Monitoring Centre, with OCHA's Internal Displacement Division, has developed inter-agency guidelines on the profiling of IDP populations. The draft guidelines – currently being field-tested – seek to assist national authorities and national and international organisations to quantify IDP populations and collect other information relevant for improved protection and assistance. They are designed to enable practitioners to decide which profiling methodology is best suited for a given IDP situation. They will thus be an important tool for promoting the establishment of better IDP population data collection. Ultimately, however, the improvement of the availability and quality of IDP data will depend on the political will of governments and senior UN representatives and the extent to which they recognise and prioritise the need to improve responses to internal displacement situations.

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1. See article by Dennis McNamara on page 9-11.



# IDP protection at the national level in South Asia

by Paula Banerjee

**South Asia is one of the most conflict-prone regions in the world and internal displacement is a fact of life. Governments have been loath to acknowledge IDP issues but is change afoot?**

Discrimination against minorities, religious and ethnic hatred, state repression, demands for self-determination, famines, floods and ill-conceived development projects have contributed to massive internal displacement in South Asia. For the most part victims are unable to cross borders and are forced to live within a regime that created the occasion for their displacement in the first place.

*Tsunami-displaced family, Sri Lanka.*

All South Asian states consider internal displacement to be an internal matter. National policies emphasise welfare and do not recognise the rights set out in the Guiding Principles. There is little acknowledgement that IDPs are citizens

– with the concomitant entitlements that citizenship brings. In no state in South Asia is land recognised as a fundamental right, thus making it very easy to displace people. Policies which were intended to be pro-poor today work in favour of the rich and the powerful.

Policymakers and the general public only became aware of the extent of internal displacement in South Asia in the 1990s. As internal displacement accelerated, governments across South Asia established national human rights commissions but their mandates were limited. Impetus to address IDP issues was provided by a two-year research project – supported by Robert Cohen and the Brookings Project on Internal Displacement – which helped regional scholars and

activists to expand their knowledge of displacement in order to promote better policies and programmes for vulnerable displaced groups. Research drew attention to the increased vulnerabilities of displaced communities, especially religious and ethnic minorities, lower caste people,



women and children. It became clear that very few people could access any form of compensation or other assistance. Women were particularly marginalised, finding it virtually impossible to access resettlement aid in their own names.

India, Nepal and Sri Lanka have tried to develop national IDP mechanisms. However, policies are not sensitive to the needs of all the disadvantaged sections of the population and often selectively benefit favoured groups of IDPs.

## India

Ever since independence in 1947 the Indian state has been committed to an ideology of 'development'

and 'modernisation' which has led to state-led construction of dams, transport links and urban infrastructure. So strong was national consensus that protests against the large number of dams build in the first four decades of independence were rare. Prime Minister Jawaharlal Nehru's comment that dams were the "temples of modern India" gave legitimacy to the paradigm of 'development'. When discontent was expressed the Congress Party quickly co-opted protest leaders. It was only with the Narmada Valley Project<sup>1</sup> that the first serious popular opposition to development-induced displacement began. Soon agitations spread to urban renewal schemes, highway making, steel plants, mining and the ecological ravages of the prawn industry.

Significant numbers of Indians have also been displaced by conflict. Lack of regional or national

mechanisms has meant that different groups of IDPs are treated differently according to which Indian state they live in and their caste/ethnic status. Kashmiri Pundits – the estimated 350,000 Hindus displaced as a result of the ongoing conflict in the Kashmir Valley – receive assistance of around \$40/month while the 300,000 IDPs displaced in northeastern India – including Santhals and members of other adivasi ('scheduled/tribal') communities – get almost nothing. Many continue to live in makeshift camps, unable to access health and education services, effectively abandoned by the government. Adivasis – around 7.5% of India's population – are a disproportionate segment of India's IDP population. They make up 40%

of the estimated 33 million people displaced by development projects.

Discussion of a draft IDP policy continued for two decades and it was only in 2004 that a National Rehabilitation Policy for Project Affected Families (NPRR)<sup>2</sup> was passed with minimal debate. NPRR only applies to those displaced due to development projects and is primarily meant to safeguard the interests of resource-poor landless agricultural labourers, forest dwellers, artisans and adivasi groups. The NPRR should safeguard adivasis from arbitrary displacement but has no provisions to consult them.

The NPRR is almost gender blind. It makes no provisions for adult daughters of the family to be compensated for displacement on an equal basis with the adult sons, as it wrongly assumes that adult women are married and thus no longer part of their natal family. This follows the pattern set by Narmada Waters Dispute Tribunal Award of 1979 that makes men the sole recipient for compensation and rehabilitation. This has had heinous effects on women in general and female-headed households in particular. There are cases where men run away with the cash that they receive as compensation and women are left to look after the family in a state of utter penury.

The NPRR has other grave shortcomings:

- Financial assistance is restricted to the equivalent of a minimum wage for 625 days: families below the poverty line would much rather have jobs than receive once-off allowances.
- Cash compensation is inappropriate for people who may have had little experience of the market economy and thus unwisely use cash made available.
- There is little safeguard against corrupt officials.
- Provisions for project-affected people to participate in grievance procedures are extremely restrictive.

- NPRR has no provisions regarding multiple displacement although field evidence shows most IDPs suffer from multiple displacements.

- NPRR procedures are only activated when a set number of people are displaced – at least 500 families in lowland and 250 families in highland areas. Civil servants are tempted to under-enumerate in order to avoid liability to pay compensation.

The gravest failure of the NPRR is that it only applies to a sub-group of India's IDP population and ignores those displaced by conflict and/or natural disasters.

### Sri Lanka

By 1995 the number of people internally displaced by the Tamil-Sinhalese conflict in Sri Lanka had topped a million. A ceasefire in 2002 saw the number of IDPs decline but the tsunami on 26 December 2004 and the resumption of hostilities between the Sri Lankan government and the Liberation Tigers of Tamil Elam (LTTE) have led to new displacement. The Internal Displacement Monitoring Centre (IDMC)<sup>3</sup> estimates that 200,000 people have been displaced since January 2006 and that IDP numbers are again in excess of half a million.

Throughout the conflict no ministry has had overall responsibility for IDP welfare and there are no comprehensive policies or guidelines on displacement. A range of departments, ministries and aid agencies have taken responsibility for relief, protection and assistance. Allocation of ministerial areas of responsibility appears driven by political and electoral considerations. Administrative practices have been subject to whimsical changes and food entitlements have often been arbitrarily cut. Decisions taken at ministerial level in Colombo have been ignored by local army commanders.

In June 2002 the government adopted a National Framework for Relief, Rehabilitation and Reconciliation (Triple R)<sup>4</sup>, to provide a common strategy for

needs assessment, planning and delivery of assistance. The Triple R Framework adopted the Guiding Principles on Internal Displacement as official policy for assisting IDPs affected by the conflict and required ministries to bring their policies and programmes into alignment with these principles. However, as conflict resumes, political calculations are again taking precedence over humanitarian considerations.

Displaced tsunami survivors have been more successful in accessing resources. Houses, albeit of poor quality, were built in record time and compensation payments made. Conflict-affected IDPs were upset by the differential treatment, especially as their monthly food rations were less than those given to tsunami survivors. UNHCR officials are aware of discrepancy of provision but there is little they can do. Tough times lie ahead for Sri Lanka's war-affected IDPs.

### Nepal

It is estimated that up to 200,000 people have been internally displaced in Nepal by ten years of war, which has claimed more than 13,000 lives and affected all districts of the country. The war has also thrown hundreds of thousands of people onto the road to India – a traditional migration route for Nepalese.

The government announced policies for IDPs in 1999 and made local civil servants responsible for registering displaced people. However, hardly any did so. No accurate displacement figures are available since movements have not been monitored and no comprehensive registration has taken place. As a consequence of a biased governmental IDP definition, the majority of IDPs have been excluded from assistance and the 'IDP' term has become a pejorative label designating a small group of displaced closely linked to the state. This makes future registrations as well as assessments of the scope of displacement very difficult. Hardly any IDPs have returned home, despite the ceasefire and conclusion of a peace agreement in November 2006.

Plans to provide fertilisers, seeds, health care, food for work, security

and temporary shelter have been half-hearted. Only a small number of IDPs have received a promised daily allowance and then only for a limited period. IDPs who found their way to Kathmandu, the capital, have not been given any assistance. As is often the case in situations of internal displacement, many IDPs in Nepal have lost their documents during the course of their flight, a major obstacle to their integration in urban areas. UNICEF reports that some IDP children are being denied an education because they lack proper documentation or because they need to contribute financially to the survival of their family. IDPs displaced by the Maoist rebels have found it easier to access assistance than those displaced by the Nepalese army. IDMC notes that continued human rights abuses by the Maoists – killings, abductions and torture – prevent large-scale return movements. These are also hampered by the absence of government representatives at the village level, these having been

displaced themselves, as well as by the lack of a government return plan.

### The way forward

South Asia needs a paradigm shift. Programmes for rehabilitation and care for IDPs must fall within the framework of rights and justice, not those of humanitarian needs and welfare. Governments have to recognise that they cannot give aid to one group of IDPs and deny it to others. They need to acknowledge the reality that the bulk of conflict- or development-induced IDPs are adivasi, lower caste, rural and urban poor and/or women.

Although national policies on IDPs are flawed, it must be acknowledged that governments are belatedly developing IDP policies as a result of popular activism, research and the work of national human rights commissions. These are moves in the right direction. In West Bengal, a self-avowed leftist state in India, recent activism by potential IDPs

and civil society partners has forced the state government to rethink the process of acquiring agricultural land for industry and to engage in dialogue with the people who are to be displaced concerning compensation for lost land.

Unless the situation of IDPs is addressed and justice achieved, there will be no lasting peace in South Asia.

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1. See [www.narmada.org](http://www.narmada.org) and R Oleschak. 'Sardar Sarovar injustices', FMR 26, [www.fmreview.org/FMRpdfs/FMR26/FMR2638.pdf](http://www.fmreview.org/FMRpdfs/FMR26/FMR2638.pdf)
2. [www.dolr.nic.in/Hyperlink/LRC-status/npr\\_2003.htm](http://www.dolr.nic.in/Hyperlink/LRC-status/npr_2003.htm)
3. [www.internal-displacement.org](http://www.internal-displacement.org)
4. [www.erd.gov.lk/publicweb/RRR2002/chapters1-6.doc](http://www.erd.gov.lk/publicweb/RRR2002/chapters1-6.doc)

# A road map to the end of displacement in Sri Lanka?

by Jeevan Thiagarajah

**The Consortium of Humanitarian Agencies (CHA) is a non-profit agency representing those working in the humanitarian sector in Sri Lanka. Our work on internal displacement, the knowledge we have gained and the capacity we have developed owe much to collaboration with Roberta Cohen and her Brookings colleagues.**

Internal displacement is a major obstacle to development in Sri Lanka. At times up to two million have been displaced. The current number of IDPs – the long-term displaced and those recently displaced both by the tsunami and the resumption of conflict – hovers around 450,000.

In 2001 CHA, in collaboration with UNHCR and the Brookings Project on Internal Displacement, began an ambitious undertaking to operationalise the Guiding Principles of Internal Displacement via an

awareness and training project. The project sought to synthesise the Guiding Principles, Modules on Internal Displacement developed by the Norwegian Refugee Council (NRC) and the Office of the UN High Commissioner for Human Rights (OHCHR), *Annotations to the Guiding Principles*<sup>1</sup> by Walter Kälin and a *Handbook for Applying the Guiding Principles on Internal Displacement*<sup>2</sup> developed by the UN Office for the Coordination of Humanitarian Affairs (OCHA) and Brookings.

The resultant *Guiding Principles on Internal Displacement: a Toolkit for Dissemination Advocacy and Analysis*<sup>3</sup> was practice-oriented. It recognised that the Guiding Principles can be an unwieldy tool of analysis. To add to the practical nature of the toolkit, discussion and analysis components were included with pages allocated for notes and questions. Activities to publicise the toolkit and train practitioners in its use sought to encourage participants to think, understand and reach their own conclusions – rather than conform to the rules and non-participatory techniques of traditional workshops. The toolkit was user-friendly, interactive, transparent, educational and reflective. It targeted politicians, military officers (both from the Sri Lankan armed forces and the Liberation Tigers of Tamil Eelam – LTTE), donors,



local and international NGOs, IDPs themselves and the general public.<sup>4</sup>

Our partnership with Brookings contributed to our understanding of the end of displacement. CHA further collaborated with Brookings to produce a *Practitioners Kit for Return, Resettlement and Development*<sup>5</sup> which focused on realisation of Guiding Principles 28, 29 and 30 relating to the three Rs of return, resettlement and reintegration. Drafting involved intensive consultation in order to ensure the document was practical and reflected a field perspective. At a stakeholders' meeting, consensus was reached prior to the Practitioner's Kit being released. Roberta Cohen noted that the kit adapted the Guiding Principles to the Sri Lankan experience. "Returns," she wrote, "must be voluntary, based on informed decisions about conditions in return and resettlement areas. They must take place in safety and dignity with the displaced given the opportunity to participate in their planning and management. IDPs must enjoy full access to public services, equality before the law and not be considered 'enemies'. They should have the right to recover their property and possessions or receive compensation, and should be assisted in transporting to their areas

of origin assets required for their livelihood... Although light enough to carry around, the Practitioner's Kit bears a heavy message. It should help not only the Government of Sri Lanka but all governments and major actors to find the right solutions to ending mass displacement."<sup>6</sup>

With Brookings assistance we also launched an IDP newsletter – in English, Sinhala and Tamil.<sup>7</sup>

### End of displacement in sight?

In early 2006 the Sri Lankan government appointed a committee to look into displacement and suggest solutions.<sup>8</sup> The draft legislation before Parliament at present would, once ratified, create for the first time a unitary body in charge of IDP policy – the Jathika Saviya Authority. It would have powers to formulate national policy and plan, implement, monitor and coordinate the resettlement of IDPs and refugees. The presence of CHA in the committee that influenced the legislation owes much to the knowledge we gained as a result of our relationship with the Brookings project.

Displacement has been the most visible impact of Sri Lanka's protracted conflict. An end to displacement would be the most visible progression to peace in the country and a lasting tribute to the value of our collaboration.

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1. [www.reliefweb.int/rw/lib.nsf/db900SID/KKEE-6DDSGX/\\$FILE/Guiding%20Principles%20on%20Internal%20Displacement.pdf?OpenElement](http://www.reliefweb.int/rw/lib.nsf/db900SID/KKEE-6DDSGX/$FILE/Guiding%20Principles%20on%20Internal%20Displacement.pdf?OpenElement)
2. [www.brookings.edu/fp/projects/idp/resources/HEnglish.pdf](http://www.brookings.edu/fp/projects/idp/resources/HEnglish.pdf)
3. [www.humanitarian-srilanka.org/eResources/PDFdocs/GPtoolkitfull.pdf](http://www.humanitarian-srilanka.org/eResources/PDFdocs/GPtoolkitfull.pdf)
4. For more information about the Toolkit and the process of its preparation and dissemination see Danesh Jayatilaka and Robert Muggah 'Where there is no information: IDP vulnerability assessments in Sri Lanka's borderlands', FMR20, [www.fmreview.org/FMRpdfs/FMR20/FMR2019.pdf](http://www.fmreview.org/FMRpdfs/FMR20/FMR2019.pdf). See also: [www.brookings.edu/fp/projects/idp/syllabi/34-CHA-Danesh-d2-1.pdf](http://www.brookings.edu/fp/projects/idp/syllabi/34-CHA-Danesh-d2-1.pdf)
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7. [www.humanitarian-srilanka.org/Knowledge\\_Centre/Publications.php](http://www.humanitarian-srilanka.org/Knowledge_Centre/Publications.php)
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# How far may Colombia's Constitutional Court go to protect IDP rights?

by Manuel José Cepeda-Espinosa

**In 2004 Colombia's highest court declared that the inhumane living conditions of the country's IDPs were 'unconstitutional' and ordered the authorities to take action. Colombia has, arguably, the world's most progressive IDP legislation but can the state guarantee IDPs their constitutional rights?**

Colombia's internal armed conflict is the longest running in Latin America, a complex conflict which has been fought primarily between left-wing guerrillas and Colombian armed forces and right-wing paramilitaries but also involving drug traffickers,

landowners and other legal and illegal interests. Displacement has been an endemic feature of the 40-year-long conflict. The vast majority of those forced to flee do not cross borders but become IDPs. Colombia has one of the highest IDP populations in the world.

The Colombian government estimates that there are 1.8 million IDPs but the Consultoría para los Derechos Humanos y el Desplazamiento (CODHES) – the country's leading NGO advocate for IDPs<sup>1</sup> – argues that well over three million people – of a total population of some 44 million – are internally displaced.

Since the adoption of the 1991 Constitution, Colombia has developed a large body of jurisprudence with regard to human rights. Among the

constitutional mechanisms to ensure the effective exercise of human rights is *acción de tutela*, a petition procedure which allows individuals to seek protection of fundamental human rights in the courts. A *tutela* is a complaint that any citizen can bring before any judge in order to seek an immediate judicial injunction against actions or omissions of any public authority that they claim violates their constitutional fundamental rights. Courts must hand down a ruling within ten days of receiving a petition. More and more citizens are using the *tutela* in defence of civil liberties, social rights and indigenous peoples collective rights. In 1992 a total of 8,060 *tutela* judicial decisions reached the Court for discretionary review but by 2005 there were 221,348. Since 1992, the Constitutional Court, to whom all *tutela* judicial decisions must be sent for *certiorari* selection, has received about 1,400,000 *tutela* decisions. Laws can also be brought before the Constitutional Court and declared unconstitutional in the abstract with *erga omnes* effects, through another kind of petition (*actio popularis*). In this event, the Court must rule within six months.

Since 1997 the Court has addressed individual *tutela* cases submitted by IDPs who invoke specific fundamental rights – including rights to non-discrimination, life, access to health and education services, minimum income, housing and freedom of movement. From its first decisions the Court acknowledged the existence of a humanitarian crisis. As more and more IDPs took up cases, by 2003 the Court had dossiers submitted by over a thousand IDP families.

### Landmark decision

The Court delivered judgment T-025/04 in January 2004 after reviewing 108 cases. It formally declared that IDPs' inhumane living conditions needed to be addressed by all of the competent authorities. It noted that "due to action or omission by the authorities in providing displaced population with optimum and effective protection, thousands of people suffer multiple and continuous violations of their human rights." It came to this conclusion after noting the extreme vulnerability faced by IDPs, protracted and daily

violations of their constitutional rights and the repeated failure of the authorities to protect their rights. The Court took into account that the displaced population included a high number of persons to whom the constitution affords special protection – elderly persons, female heads of household, pregnant women, children, members of indigenous and Afro-Colombian communities and persons with disabilities. The Court noted that the violations of their rights were not attributable to the actions or omissions of a single authority but were due to deep-seated structural failures.

The Court's declaration of an unconstitutional state of affairs is only done when problems are so entrenched that they require the intervention of several organs of the Colombian state for their resolution. The Court may order the adoption of remedies that benefit not only the plaintiffs in an individual *tutela* action but also other persons who share the same situation – in this case, the entire displaced population in the country. The Court issued orders for remedying the budgetary and administrative capacity shortfalls and established minimum mandatory levels of protection of IDPs' rights that were to be secured in an effective and timely fashion. In August 2005 it further declared that actions taken since the ruling were insufficient and issued additional orders for correcting the response.

Although the Court's unprecedented action was justified primarily by the need to enforce fundamental constitutional rights the members of the Court also sought justification from international law. The Colombian Constitution provides that fundamental rights must be interpreted in the light of international human rights. The Court relied heavily on the Guiding Principles on Internal Displacement and used them as interpretative guidelines to determine the exact scope of the rights of IDPs and the extent of the state's obligations to promote them.

The government initially conveyed certain misgivings but has now explicitly committed itself to abiding by the Court's decision and to ensuring the entire apparatus of the

Colombian state complies with its orders. Funding for IDP programmes has been significantly increased. Permanent evaluation mechanisms are being put in place, including a set of targeted result indicators to measure progress in realising IDPs rights. The IDP issue is now firmly on the government's agenda and more frequently discussed in the Congress and the media. The Court's decision has also served to legitimise and protect agencies working to protect IDP rights. In June 2005 civil society advocacy groups met – on a basis of equality – with Cabinet ministers charged with submitting reports on progress in complying with demands set out in T-025/04.

### Challenges ahead

Much has been achieved but there is still a long way to go before internal displacement in Colombia is adequately addressed. The Court has recently drawn attention to delays in the adoption of the measures required to overcome the unconstitutional state of affairs. It has highlighted the need for action in ten critical areas:

- coordination between state agencies
- registration and collection of demographic data on IDPs
- sufficient budgetary allocations
- lack of indicators to measure 'effective enjoyment of rights'
- policy vagueness
- failure to protect the indigenous and Afro-Colombian groups who have borne the brunt of displacement and whose communities are at risk of dispersal
- inadequate levels of security during the process of IDP returns
- failure to equally address the needs of those displaced before and after T-025/04
- poor coordination between different tiers of government
- lack of a policy to prevent displacement, especially during military operations.

The Colombian government has recently filed a new report, as required by the Court, indicating how it plans to address these ten critical areas. The Court has had to opt between imposing sanctions – fines or imprisonment of negligent officials – or continuing to order gradual advances towards fulfillment of IDPs' rights. The Court has chosen the latter

course and has made substantial progress. Organisations of displaced persons themselves have requested the Court to continue this approach. However, there are those who draw attention to the fact that almost three years have passed since T-025 was handed down. Some have asked the Court to declare public officials in contempt of court. Not only is its

credibility at stake but so too are the prospects of Colombia's IDPs finally achieving their constitutional rights.

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1. [www.codhes.org](http://www.codhes.org)



IDPs in Colombia

UNHCR/P. Smith

## Regional or national protection for Great Lakes IDPs?

by Zachary A Lomo

**Roberta and I differ on both substantive issues and methodological approaches to the protection of IDPs. The key problem facing IDPs in Africa's Great Lakes is not lack of regional mechanisms but the absence of strong national protection systems.**

Roberta believes that the distinctions between refugees and IDPs are arbitrary and argues for parity between them. I contend there are substantial legal and material differences arising from the configuration of the international system based

on states. While Roberta strongly favours international and regional mechanisms for the protection of IDPs, I advocate for strong national systems that address the root causes of forced displacement.

The key problem facing IDPs in the Great Lakes states – Rwanda, Burundi, the Democratic Republic of Congo, Uganda, Kenya and Tanzania – is the absence of strong national systems and local and international commitment to enforcing existing international standards. IDPs are the epitome of a crisis of nation-building, a failure to reform the post-colonial state. The Great Lakes is characterised by weak and poorly-led states prone to external interference. The result is bad governance and the destruction or weakening of political, social,



economic and judicial institutions to allow citizens to negotiate competing interests over natural resources. It is not surprising that different groups have resorted to war in order to either be heard, protect their interests, avert a potential threat or simply usurp political power.

*Cet Kama  
IDP camp,  
Gulu District,  
northern  
Uganda,  
August 2006.*

The regional and global consequences have been catastrophic – genocides in Burundi in 1972 and Rwanda in 1994. Massacres and gross violations of human rights continue unabated

in almost all the countries of the region except Tanzania. According to the International Displacement Monitoring Centre there are over four million IDPs – around two million in northern Uganda, 1.5 million in DRC and 117,000 in Burundi. Officially, Rwanda has no IDPs but some reports suggest more than 200,000 Rwandans still live in IDP-like situations. Deceptively stable, Kenya has up to 400,000 IDPs displaced by conflict over natural resources.

These statistics do not tell the whole story. No one can know the exact number of people who have been forced to flee because many do not opt for the official camps, instead finding shelter amongst communities where there is relative stability and peace. The situation of IDPs remains precarious and deplorable with continued threats to physical security, lack of adequate food, safe drinking water, health and educational services, and prevalence of HIV/AIDS and sexual and gender-based violence.

In conflict and post-conflict situations, national systems in the region are virtually dysfunctional. It is thus tempting to call for external involvement. The International Conference on the Great Lakes Region<sup>1</sup> represents the most concerted external attempt – spearheaded by the UN in collaboration with the African Union – to find a lasting regional solution to the root causes of the tragic events that have engulfed the region. At

their first summit regional leaders committed themselves to comply with the Universal Declaration of Human Rights and operationalise relevant international and regional human rights instruments. They



also pledged to establish regional and national systems to identify, disarm and separate combatants from civilian refugees and displaced persons and to confine them in facilities to prevent them from manipulating refugees and IDPs for political or military purposes.

There is often a blind faith in the international system. International mechanisms are allegedly independent, impartial and free from political intrigue and manipulation. It is claimed they can mobilise the resources and expertise that are always urgently needed to address the unique needs of IDPs. However, experience shows that neither in the Great Lakes nor elsewhere is this the best approach to protection of IDPs.

- International and regional arrangements are unable to acknowledge how internal displacement crises are related to national politics and governance issues.
- External mechanisms can ignore serious violations of human rights and legitimate corrupt and dictatorial regimes.
- Many international actors do not endeavour to understand national legal systems and rules.
- External mechanisms can support institutions that are not accountable to their purported beneficiaries

- External interventions can destroy local systems and engender dependency.

Uganda is a good example. External pressure pushed Uganda to develop an IDP policy that does not conform to the requirements of the country's constitution. As a result, institutions created by the policy document have taken second place to external mechanisms. In effect, IDP issues in Uganda are not really in the hands of Ugandans.

### National mechanisms need priority

We need to focus attention on developing national mechanisms for protection of IDPs. IDP advocates such as Roberta often miss the point when they spend time comparing IDPs to refugees and wish there was an international regime for IDP protection akin to that for refugees. Generalised assertions tend to suggest that IDPs face problems because they are IDPs. The reality often is that by the time IDPs come to our attention the whole country has been terrorised and no one is safe anymore.

Putting emphasis on national mechanisms allows us to address issues of bad governance that are at the root of human rights violations for all citizens, whether or not they are IDPs. It means:

- working hard to end the immediate causes of displacement
- supporting peace talks and processes
- ensuring that the interests of those forced to flee their homes are protected through progressive inclusive policies and legislation
- reform of constitutions and national laws which determine access to land and natural resources.

Regional mechanisms for protecting IDPs should not be a priority. The problem of the protection of IDPs in the region has neither been lack of a regional legal framework nor limited involvement by international actors but rather endemic leadership problems at national level. The

problem is primarily political and will require political solutions. Attempts to push for a regional protocol on IDPs – which basically adopts the Guiding Principles on Internal Displacement – are counterproductive and diversionary and risk allowing external interests to override the real issues.

The region needs good leadership that unites rather than divides; that builds rather than destroys; that

reaches out and is not introverted or locked in ethnic prejudices; that is confident and not insecure; that is transparent and not corrupt; that is humble and not aggressive and arrogant; and that is patient and not intolerant. Above all, the Great Lakes requires leadership that forges a collective vision.

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1. [www.icglr.org](http://www.icglr.org)

# Development-induced and conflict-induced IDPs: bridging the research divide

by Michael M Cernea

**The single most important idea promoted by the project which Roberta Cohen has co-directed is the concept of sovereignty as responsibility. This provides a theoretical and legal platform for supporting all those displaced within their own countries – including those displaced by development projects.**

Surely, internal displacement as a concept owes its ascent to the Guiding Principles. But it also gained worldwide circulation because these principles landed on policy makers' tables accompanied by the audible thud and impressive calibre of two heavyweight volumes by Roberta Cohen and Francis Deng: *Masses in Flight* and *The Forsaken People*. The wording of the books' common title was haunting: *The Global Crisis of Internal Displacement*. The volumes made many think, pay attention, absorb. At long last, the tragedy of massive internal displacements was receiving its overdue, documented, penetrating recognition and indictment.

When she arrived at Brookings in 1994 Roberta brought to her role several decades of militancy and experience in human rights battles. Ideas she generated started to move around the world, engaging institutions, governments, minds and hearts. Roberta joined

energies with Francis Deng and the world's current awareness of the global tragedy of the internally displaced owes much to them.

## Sovereignty as responsibility

One crucial concept developed to defend IDPs' rights is the concept of sovereignty as responsibility. In my own work on behalf of those displaced by development projects, and during the years I represented the World Bank, I have often had to contend with the spurious invocation of sovereignty. It was, and still is, misused and misconstrued as a shield for denying the rights of development-displacees violently deprived – by their own state! – of basic entitlements and property. The sovereignty concept continues to be abused by officials of states which have defaulted on their obligations to their citizens. In *Masses in Flight*, Cohen and Deng gave a crystal-clear formulation of this concept:

“the concept of sovereignty cannot be dissociated from responsibility: a state should not be able to claim the prerogatives of sovereignty unless it carries out its internationally recognised responsibilities to its citizens . . . Failure to do so would legitimise the involvement of the international communities in such protection and assistance.”

The historical record shows, sadly, that even today the 'sovereignty as responsibility' argument remains an indispensable tool, a “most powerful idea that has emerged in the international arena in the last decade”.<sup>1</sup>

## Unclear taxonomy of forced displacements

We still struggle against a major dichotomy between research focused on development-displacees and research focused on conflict-displacees/refugees (or a three-way divide, if we consider also the studies on disaster-caused displacements). Research specialisation is fully warranted but excessive research separation or weak inter-communication cannot be justified. By bridging the research divide, these distinct bodies of literature about displacement stand to gain:

theoretically, they could broaden and refine their conceptualisations by exploring similarities and differences between their sets of variables. Politically, they could influence the public arena stronger by mutually reinforcing their policy advocacy and operational recommendations.

The substantive homage we are collectively offering to Roberta Cohen must surely emphasise that, at the steering wheel of Brookings' IDP programme she has steadily been among the few scholars who acted practically to help bridge the research divide between conflict-induced and development-induced displacement. Through writings and advocacy, she has linked the opposition to the madness of ethnic cleansing and conflict displacement with staunch opposition to impoverishment through state-(mis)guided development-displacements.

Roberta Cohen's signal step that embodied best this purposive bridging orientation was the organisation of an international conference on Development-Induced Displacement and Resettlement (DIDR), convened by Brookings in 2002. Bringing together scholars from both research communities, representatives of international financial and development agencies and NGOs, it outlined ways in which experiences and policies emerging from the different types of internal displacement are mutually relevant. The background paper for the conference and the participants' discussions<sup>2</sup> yielded a key conceptual gain, breaking new ground: the common conclusion that the concept of internal displacement is not limited to one sub-type of displacement only – war or conflict-displacees – but embraces all populations forcibly displaced, either by wars, civil wars, persecution, or by development projects, who are uprooted from their lands yet do not cross a national frontier. Throughout the conference, Deng, Cohen and Kälin emphasised that the Guiding Principles were written for all categories of IDPs, and thus were germane also to IDPs resulting from development projects – regardless of whether these projects are justified, beneficial and lawful development projects, or are unwarranted or legally flawed. As Walter Kälin aptly stated: “the

causes of displacement could be legal or illegal, but the legality did not alter the factual state of being internally displaced.”

### Burgeoning numbers of development displacees

These, and other, conceptual clarifications remain highly relevant today as the number of people displaced worldwide by development is still on the increase. By now, development-displacees represent the single-largest sub-category within the global totality of IDPs. They also are by far more numerous than the world's current refugee population. The figures for China, for instance, were recently revised upwards by China's National Research Center on Resettlement and indicate that the number of people displaced and resettled by development programmes during 1950-2005 are now estimated at 70 million. In India, recent research indicates that over 60 million people were displaced by the country's development programmes during 1950-2005, and that the overwhelming majority were left impoverished. Worse, a large number of people have been displaced but not also resettled, and were simply left to fend for themselves without assistance from the state that displaced them.

On the global scale, the World Bank estimated that up to 200 million people were displaced by development projects during the last two decades of the 20th century. The pace is now accelerating as 15 million are now being displaced each year. The crisis of development-caused displacement is an integral and distinct part of the larger, massive and encompassing global crisis of internal displacement.

While the types of forced displacements differ profoundly in their causes, their impoverishing consequences on people's lives are largely similar. The international efforts for protecting the human rights and welfare of displaced people are expanding in intensity and gaining in political clout. However, it must be recognised that both the current policies on involuntary resettlement of major development agencies – such as the World Bank Group,

the Inter-American Development Bank and others – and the Equator Principles adopted by private sector banks<sup>3</sup> insufficiently highlight the human rights dimensions embedded in development-caused displacements. These documents eschew explicit human rights terminologies, mistakenly assuming that such language would somehow politicise displacement/resettlement issues and that proposed policies would be countered by aid-recipient governments arguing they infringe their sovereignty. But such avoidance has simply reduced the effectiveness and influence of these policies rather than increase them.

Certain development processes inherently pose risks to the human rights of those adversely affected, and tensions arise. Explicit risk analysis becomes therefore indispensable in order to identify, counteract and mitigate risks materially. Walter Kälin has rightly stressed that “such tensions must be acknowledged” and that the basic principle of ‘do no harm’ is as relevant for humanitarian as it is for development work. He has explicitly stated that development-induced displacements are an integral part of his mandate:

“Resettlement as a consequence of development projects, particularly if it is not voluntary, is one area where such tensions often arise and it is the area I am concerned with in my capacity as Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons . . . The notion of displacement as used within the framework of my mandate includes instances of involuntary resettlement in the context of development projects such as dams, roads, airports, industrial or tourist complexes and other infrastructure projects”.<sup>4</sup>

Walter Kälin's statement builds on the successful body of work carried out over the previous 12 years by Deng, Cohen, Kälin and the dedicated teams around them. It also expresses the international commitment to link and integrate closer the efforts on behalf of populations internally displaced by conflicts and by development under the joint flag of human rights and livelihood protection. Strengthening the world's commitment to human rights and



secure livelihoods is the best homage that can be offered to Roberta and the other architects of this cause.

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*A fuller version of this article is online at: [www.fmreview.org/pdf/cernea.pdf](http://www.fmreview.org/pdf/cernea.pdf)*

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# Studying IDPs: retrospect and prospect

by Susan Martin

**In 1989 Roberta Cohen challenged scholars, policymakers and practitioners who focused exclusively on refugees – people who had crossed an international border – to rethink their approach. She has continued to identify research questions intersecting the interests of the two communities.**

In *Refugees and Human Rights: A Research and Policy Agenda*<sup>1</sup> Cohen set out the underlying reasons to be concerned about refugees. She observed that refugee scholars often focused on those who crossed borders because of persecution and conflict, whereas the human rights community often focused on those remaining in oppressive states. The separate foci, she argued, did harm to people who were forced to flee – regardless of whether they fled internally or internationally. Human rights groups and scholars too seldom looked at or knew how to address the assistance and protection needs of the victims of human rights abuses. Humanitarian organisations and scholars too often failed to assess thoroughly or take action to address the reasons why people needed their assistance and protection.

The questions she raised have helped shape the research agenda on IDPs, refugees and human rights:

#### **Early warning of refugee emergencies:**

What types of information on human rights violations would be useful for early warning of refugee crises? What constraints exist in sharing information

between human rights and refugee organisations? How could early warning capacities be strengthened?

#### **Refugees as human rights monitors:**

How accurate is information gleaned from refugees about the human rights situation in their home country? What are the most effective ways to collect, sift and analyse their information? Under what circumstances should refugee organisations reveal information about human rights violations in host countries?

#### **Rights of refugees:**

What are the rights of refugees in international and national law and what would constitute violations of these rights? Which rights do refugees consider most important to their well-being? To what extent does adherence to international human rights and refugee agreements oblige states to bring their laws and practices in line with international standards? Are the rights of longer-term refugees in developing countries different from those of the newly arrived? Do refugees in official camps and settlements have more rights or fewer than those of refugees residing in spontaneous settlements?

#### **Detention and deterrence of asylum seekers:**

What does the international human right to seek and enjoy asylum mean in practice? When does interdiction or discouragement of refugees constitute a violation of the right to seek and enjoy asylum? What kind of criteria should be used to determine who is detained while their asylum status is being decided? Are there standards for the treatment of such detainees?

#### **Rights of returnees:**

Under what conditions is it appropriate for host countries and refugee organisations like UNHCR to encourage the return of refugees? When do returned refugees cease to be of concern to refugee organisations? How can human rights and refugee groups work together more effectively to prevent forcible repatriations and to protect and assist returnees?

The set of issues that most engaged Cohen's own thinking and future research was the protection of IDPs uprooted by situations that would have made them refugees had they crossed an international border. Arguing that the causes of the displacement were more important than the geographic location of the uprooted, Cohen put in place the intellectual underpinnings of what has become almost two decades of scholarship on IDPs.

Always an activist as well as a researcher, Cohen shared her

findings with colleagues in both the humanitarian and human rights fields. From her base at the Refugee Policy Group, and then the Brookings Institution, she formulated an action agenda that supported new research while taking steps to improve responses. A key element was appointment of the Representative of the Secretary General on Internally Displaced Persons and the establishment of the Project on Internal Displacement to provide support to the new RSG. Elsewhere in this volume, her accomplishments in shifting policies in international organisations, governments and NGOs are detailed. Equally important is her impact on scholarship and research on internal displacement.

Cohen recognised that the success of the RSG's mandate was contingent on developing a more systematic assessment of the situation of IDPs, barriers to effective national and international responses and policies and programmes that would afford greater protection and assistance. With the then-RSG, Francis Deng, she launched an ambitious research programme that was rooted in case studies of internal displacement (published in *Forsaken People*<sup>2</sup>). Working from the bottom up and the top down in analysing the situation of the internally displaced as well as the adequacy of national, regional and international responses, Cohen and Deng drew on theory as well as practice to build the argument that internal displacement should be of concern to the international community for much the same reasons that refugees were a source of concern.

In their resulting seminal work, *Masses in Flight*<sup>3</sup>, they tackle the most difficult barrier to a robust international response – national sovereignty – while establishing that, as with refugees, the absence of national protection requires international action. Building on basic human rights concepts, Cohen and Deng formulated the concept of 'sovereignty as responsibility'. This provided the theoretical underpinning for the Guiding Principles on Internal Displacement. They placed the onus clearly on states to exercise their sovereignty

on behalf of the internally displaced. When governments are unwilling or unable to accept responsibility as their ultimate expression of sovereignty, intervention by the international community may well be justified. This concept later took the form of the 'responsibility to protect' potential or actual victims of genocide, ethnic cleansing and crimes against humanity. This was reflected in Kofi Annan's introduction to his 2005 report *In larger freedom: towards development, security and human rights for all* in which the Secretary General wrote, "The time has come for



Somali IDPs,  
Hargeisa  
Kandahar  
IDP camp

Governments to be held to account, both to their citizens and to each other, for respect of the dignity of the individual, to which they too often pay only lip service."<sup>4</sup> While implementation has greatly lagged behind rhetoric, Cohen and Deng's pioneering work on sovereignty as responsibility provided an important impetus to this new conceptualism of state and international obligations.

*Masses in Flight* also examined practical impediments to effective protection, including gaps in international law and institutional weaknesses. Cohen and Deng had already launched a major research initiative, involving a panel of international law experts, to examine the applicability of international human rights and humanitarian law to the situation of IDPs. This resulting compilation confirmed that IDPs were entitled to substantial protection under existing laws and also identified areas not covered adequately in existing law or that needed to be more nuanced. Cohen noted that the team had "identified seventeen areas of insufficient protection, owing to inexplicit articulation of the law, and eight areas of clear gaps in the law."<sup>5</sup>

Cohen additionally inspired and often commissioned studies on internal displacement, building up the solid base of understanding needed to effect change in international and national responses. A review of the titles published by the Project on Internal Displacement demonstrates the far reach of the research she and her colleagues commissioned on such issues as IDP protection, development-induced displacement, displacement from natural disasters, return and reintegration of IDPs and institutional and legal frameworks for protection and assistance.

Cohen has influenced other researchers in their choice of topic and focus. My own decision to write a second edition of *Refugee Women* largely stemmed from Roberta's observation that the original, published in 1992 before the large body of IDP research became available, did not do justice to the situation of women forced to flee within their own countries.

Cohen's 1989 call for refugee scholars to concern themselves with internal displacement urged focus on the causes of displacements, human rights violations and the importance of protecting forced migrants regardless of where they seek safety or the artificial categorisations imposed by law or politics. As long as the rights of refugees and IDPs remain at risk, identifying ways to protect all forced migrants must be at the heart of our research agenda.

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# The Project: a replicable model of innovative response?

by Thomas G Weiss

**It is thanks in great part to the Project on Internal Displacement and the determination of Roberta Cohen that IDPs are now firmly on the international humanitarian agenda.**

In 1992 Francis Deng was asked to pursue his mandate as representative of the Secretary-General (RSG) on a part-time basis – a dubious yet common practice in the cash-starved world of human rights. Starting from scratch, and without an official budget, the Project's productivity and output have been impressive. The Project provides a window into the world of normative and policy change at the nexus of ideas, institutions and individuals. It offers an unusual case study of people who have made a difference in spite of the UN's well-known constraints.

Roberta Cohen came to the Project with an already distinguished record. Under her direction, the Project has punched above its weight in filling gaps, an achievement recognised in 2005 when Francis Deng and she received the prestigious Grawemeyer Award.<sup>1</sup> Roberta has also received the Washington Academy of Sciences Award for Work of Merit and Distinction in the Social and Behavioral Sciences and, in 2006, an honorary doctorate from the University of Bern.

The RSG has always had a foot in two camps – a hybrid – taking advantage of being both within the intergovernmental system of the UN as well as outside it, having both official and private platforms. The mandate and the project are so intertwined that it is difficult to say definitively whether the RSG and the Project are outside-insiders or inside-outsiders. Indeed, they collectively wear whichever hat is most convenient in advancing a particular issue.

The Project's base at a public policy think-tank working in tandem with universities has provided needed distance from governments and

diplomatic pressures. Rather than maintaining the status quo, the Project has earned a reputation for extending the outer limits of what passes for conventional wisdom in mainstream diplomatic circles.

The annual budget for direct costs is now around \$2 million but in earlier years was a mere \$500-800,000 – trivial sums, by any standard, for what was accomplished. This is not the only topic on the international agenda for which resources do not match the long list of responsibilities set out in UN resolutions. But internal displacement lies at the far end of a spectrum: an extremely ambitious mandate virtually without any guaranteed regular funds.

However, thanks to Cohen and Deng, the Project found backers. Finance for core costs and in-kind contributions has come from a range of private and public donors. Ten governments have provided support – Austria, Canada, Denmark, Japan, Luxembourg, the Netherlands, Norway, Sweden, the UK and the USA – and five foundations – Ford, MacArthur, McKnight, Mellon and Schurgot. Funds have also come from UN – the Office of the Secretary-General, OHCHR, UNICEF, UNHCR and OCHA and from partner universities and research institutions.

If independent ideas matter, so do people. The Project has provided an unusual training ground for a network of people working on IDPs. The work on the mandate by the Project provided the opportunity to create a cadre of young experts well versed about the phenomenon of internal displacement who have moved on to other positions. The Project has also engaged numerous short- and longer-term consultants from most regions of the world to

work on research, outreach and capacity building. There are very few knowledgeable specialists whose work involves internal displacement who have not worked with or been consulted by project staff and who are not part of their global network.

While 'model' may be too grandiose a description, the Project's operating procedures can help us to think about better ways to change international public policy and performance. Its blend of inside-outsider and outside-insider offers advantages that could be replicated for other controversial issues where independent research is required, institutional barriers are high and political hostility is widespread. For instance, the successful negotiation of the landmine ban contains some of the same elements of independently getting a controversial issue on the agenda and then developing a political constituency around an emerging norm.

It is worth speculating, for instance, whether the work on child soldiers would have advanced far more quickly if Olara Otunnu, until mid-2005 the UN's special representative for children and armed conflict, had been based at a research institute outside of the UN secretariat rather than within it. Ian Levine, who worked on these issues at UNICEF before moving to Human Rights Watch, remarked that one would have expected more movement on the child soldiers front than on IDPs, rather than the opposite, for, as he noted, what can be is easier to sell than banning child soldiers?

A possible replication of the Project experience is under way with the International Center for Transitional Justice.<sup>2</sup> The ICTJ's president, Juan E Méndes, is a part-time UN special advisor on the prevention of genocide. The International Organization for Migration provides another example because of its insistence on maintaining autonomy by being



an intergovernmental institution outside of the UN but which participates in many of its activities.

Financial support from outside the UN has made it possible to act autonomously. Partnerships were forged, not just with other units of the UN system but also with regional organisations as well as with international and indigenous NGOs and associations of IDPs. The RSG and the Project have consistently been more forthright and openly critical than would be the case for 'normal' international civil servants. While this independence is generally accepted and admired at UN headquarters, it is usually misunderstood by international civil servants whose more bureaucratic instincts prevent their appreciating the benefits. As one former foundation official noted in looking back at the decision to make a grant: "The people were

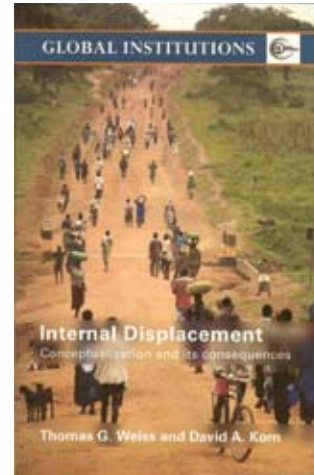
solid. Their research materials were high quality. The Project was really the only game in town."

Starting from a point in the early 1990s when there was a question as to whether IDPs were even a special category, it is no small feat to have brought intergovernmental organisations (both UN and regional) and NGOs to take IDP programming seriously and donors to urge them to do so. There are more general lessons here for international research and action.

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## Looking to the future

by Elizabeth Ferris

### It is a daunting task to follow in the footsteps of Roberta Cohen as the new co-director of the Brookings-Bern Project on Internal Displacement

I remember working with Roberta in the late 1980s – long before the term 'IDP' became commonplace in the humanitarian community. Many NGOs were concerned about the lack of protection of uprooted people who had not crossed a national border but were uncertain about how to take the issue forward. Roberta Cohen's pioneering work provided clear directions and guidance to NGO advocates. The subsequent appointment of Francis Deng as the Representative of the UN Secretary-General (RSG), the development of the Guiding Principles and the policy research carried out by the Project proved invaluable in mobilising support for work to protect IDPs.

I am looking forward to building on the solid policy research work Roberta has inspired. This Project has been a unique collaborative

undertaking between the UN's RSG and a policy research institution. The Project has directly supported the mandate of the RSG, making it possible for him to be more effective in his advocacy to promote the human rights of IDPs. At the same time, the Project complements the work of the RSG – and others working with IDPs – by carrying out cutting-edge research on issues of internal displacement.

Four strategic directions will guide the future work of the Project:

**Strengthening the normative framework.** At the global level, the Guiding Principles have been recognised as providing the normative framework for IDPs but more work is needed to translate this recognition into concrete policies. The Project will continue to support

efforts by the RSG to encourage governments to develop laws and policies which incorporate the Guiding Principles and to work with regional intergovernmental bodies to support them. In this respect, we will continue to promote and disseminate the Guiding Principles and their accompanying Annotations; we will publish a Legislators' Manual to provide concrete support to law-makers; and we will provide legal expertise to governments in need of technical assistance. We will also encourage civil society actors to play a role in advocating with their governments for the incorporation of the Guiding Principles into legislation and in monitoring the implementation of such laws. In the past year, the Project has developed guidelines on the human rights of IDPs in situations of natural disasters and in the coming years we will promote their implementation. Research and policy papers in areas such as 'when displacement ends' and 'displaced migrants' will be

carried out to further strengthen the normative framework.

**Enhancing the will to protect.** As there is often a gap between policies developed at the global level and field practice, the Project will encourage the implementation of the Guiding Principles. With the support of the Project, the RSG will continue to dialogue with governments through missions, working visits and correspondence, encouraging them to incorporate the Guiding Principles into national legislation. We will also work with civil society and national human rights institutions to raise awareness of both the needs of IDPs and the human rights to which they are entitled. In this regard, national and regional seminars and courses will be organised. There is growing recognition of the need to mainstream the issue of IDPs within the UN system and substantial progress has been made in the past year to clarify the respective responsibilities of various UN agencies working with IDPs. The Project will monitor these developments and provide support to UN agencies to translate the Guiding Principles into practice. Work to enhance the will to protect will be supported by research on particular national situations and on specific issues, such as property restitution, IDP women, elderly IDPs and participation in decision making. These research reports will be widely disseminated to policy makers at all levels, to civil society groups and to IDPs themselves.

**Strengthening the capacity to protect.** Even when there are clear normative guidelines and a genuine will to protect IDPs, sometimes governments and civil society lack the capacity to carry out measures to ensure their protection. With the support of the Project, the RSG will continue to work with governments to build their capacity to protect IDPs. An annual course on IDPs will be organised in conjunction with the International Institute of Humanitarian Law<sup>1</sup> for government officials from countries with significant IDP populations. Training courses for civil society will be carried out and academic institutions will be encouraged to develop research and training programmes on issues related to IDPs. In the next year, we will devote particular emphasis to seminars

and courses on implementation of the guidelines for IDPs in natural disasters. Research will be carried out on the role of civil society in working with IDPs and on effective ways of ensuring IDP participation in the decisions which affect their lives.

**Responding to new challenges.** The Project will continue to carry out research on cutting-edge issues in internal displacement. Research projects on IDPs and peace will be completed in 2007 and results presented to the UN's Peacebuilding Commission.<sup>2</sup> As IDP issues must be seen in the broader humanitarian and human rights context, the Project's future research agenda will be shaped by the needs of policy makers and global developments. Given the rapidly changing nature of the field, it is risky to predict which issues will require substantive research in the future but likely candidates include development-induced displacement, non-state actors, the Responsibility to Protect, and accountability to beneficiaries.

Now that the issue of internal displacement is firmly on the international agenda – thanks in large measure to the work of Roberta Cohen and the two RSGs – attention must turn to ensuring that the Guiding Principles are fully implemented and that protection of IDPs on the ground increases. When the Project was established it was virtually the only organisation focusing exclusively on IDP issues but today other organisations are making significant contributions. The Internal Displacement Monitoring Centre of the Norwegian Refugee Council<sup>3</sup> provides an excellent database and useful analyses of specific IDP situations and the Office for the Coordination of Humanitarian Affairs (OCHA) has staff working to ensure IDP protection in the field. As a result of the humanitarian reform efforts, UNHCR is increasing its capacity to work with IDPs. *Forced Migration Review* will continue to draw wider attention to the Guiding Principles.

It will be important for the Project to continue its close collaboration with these partners and to ensure that our collective efforts build on our relative strengths. As mentioned above, the Brookings-Bern Project is uniquely placed to support the work of the RSG and to carry out research which can guide policy-makers and contribute to a broader understanding of internal displacement.

I come from an NGO background and am committed to encouraging more active engagement by civil society in enhancing the protection of IDPs, in building capacity of IDP organisations, and in working with the UN to ensure that the humanitarian reform presently underway<sup>4</sup> results in more effective protection of IDPs.

It is an exciting time to be joining the Brookings-Bern Project on Internal Displacement and I look forward to working with the project's wonderful staff and more closely with many of the contributors to and readers of this issue of FMR. We are all deeply indebted to Roberta for her commitment and hard work these past 14 years to make life a little safer for internally displaced people. I am personally grateful for her efforts to ensure a smooth leadership transition and look forward to continued collaboration with her in the future.

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1. <http://web.iihl.org>

2. [www.un.org/peace/peacebuilding](http://www.un.org/peace/peacebuilding)

3. [www.internal-displacement.org](http://www.internal-displacement.org)

4. See article by Dennis McNamara on page 9-11.

*IDP children forage in refuse bins for food, Luanda, Angola.*





# In her own words

The Editors of *Forced Migration Review* are grateful for the consistent support which Roberta Cohen has given to our publication ever since its launch. She has not only written for *FMR* but has also assisted to expand our readership and profile, helping *FMR* to become the most widely read publication on IDP and refugee issues. Inevitably, some of the displacement contexts she has described in her *FMR* articles have changed – and the policy debates she contributed to moved on – but many of her challenges remain contemporary:

While the Guiding Principles alone cannot prevent displacement or the violation of the rights of IDPs, they do serve notice to governments and insurgent forces that their actions are being monitored”.

*FMR2, 1998.*

“The Guiding Principles are an empowerment tool ... Back in the 1970s, through my human rights work I had the occasion to meet a Soviet dissident who had been confined to a psychiatric hospital because of his political views. He had been injected with painful drugs, abused and partially starved. Because of an international campaign, he was released. When I met him in New York, I could not help but ask him: “How did you get through all of this?” In response, he took a crumpled piece of paper from his back pocket, and said, “This is how.” The paper was the text of the International Covenants on Human Rights, the UN adopted standards on civil, political, economic, social and cultural rights. This man had memorised them and knew them by heart. When I asked him how it was possible that this document had sustained him when his government did not abide by the standards in the Covenants, he replied: “Oh, they know about them, they adopted resolutions on them at the UN, in fact they have ratified them, and one day they will have to observe them.” Holding up the Covenants, he said, “This document has power.” He proved to be right. I believe this story should be instructive for today’s discussions about the Guiding Principles and how they can reinforce the response strategies of IDPs.”

*FMR report on Oslo IDP conference, 2001.*



*IDP women in Darfur attending health education session*



*IDPs in Ituri, DRC, June 2005.*

“Even as the war [to oust the Taliban in Afghanistan] came to an end, the long delay in setting up an international security force and the limited mandate given to it demonstrated once again that the now accepted international responsibility to avert starvation still does not extend to protecting the physical safety and human rights of people inside... The humanitarian community’s orthodox insistence upon the civilian character of aid had the effect of putting it into the unseemly position of begrudging food to people in areas of widespread malnutrition ... maintaining the complete independence of humanitarian action in all circumstances is probably not possible and in some cases could prove perilous to the populations the international community is trying to protect. A more realistic approach would be to create at the outset of each emergency a framework to foster better communication between humanitarian and military actors.”

*FMR13, 2002.*

“After many years in denial, the UN system has finally acknowledged the need to promote a more effective institutional response to the protection of IDPs. Giving the job to UNHCR has the potential to bring predictability and clarity to an area regularly described as the biggest gap in the international response to IDPs.”

*FMR IDP Supplement, 2005.*