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特定群体和个人：
人口大规模流亡和流离失所者

负责国内流离失所者人权问题的秘书长代表

瓦尔特·卡林的报告

增 编^{*}

国家责任框架

* 本报告的内容提要以所有正式语文分发。报告本身载于本内容提要附件,仅以原文分发。

内 容 提 要

由于国内流离失所者居住在自己国家境内，属于其国内政府管辖，因此，主要应由他们的国家当局来负责满足他们的保护和援助需要。《关于国内流离失所的指导原则》强调了这一点，规定了国内流离失所者的权利和各国政府对这些人的义务。《指导原则》提供了一个框架，以更好地了解国家责任所应包括的内容，在制定有效的国家对应措施时充当指南。为协助各国政府完成这一任务，由负责国内流离失所者人权问题的秘书长代表共同主持的布鲁金斯学会和伯尔尼大学合办国内流离失所问题项目将国家责任的各项基准放在一份文件内。每一项基准表示各国政府为承担对其国内流离失所者的义务所应考虑采取的一项步骤。

虽然各国政府需要根据自己的国情来采取步骤，但有些措施应该是面临国内流离失所问题的所有国家都应该采取的。具体而言，各国政府应考虑采取措施：防止或缓解流离失所问题；提高国民对这一问题的认识；收集关于流离失所者人数和处境的数据；支持有关国内流离失所问题和《指导原则》的培训工作；建立维护国内流离失所者权利的国家法律框架；制定一项国内流离失所问题国家政策；指定一个国内流离失所者问题联系机构；鼓励国家人权机构将国内流离失所问题纳入工作范围；调拨充足的资源来解决这一问题；确保国内流离失所者参与决策工作；支持为流离失所者找到持久的解决办法。此外，如果国家能力不足以解决流离失所者的需要，则与国际社会的合作应该是国家政策的一项关键内容。

本国家责任框架目的是为了帮助各国政府解决其国内的流离失所问题的各个方面。此外，这份框架还应让各国际组织、区域机构、国家人权机构、民间社会和流离失所者本人能够评价国家责任是否得到有效行使，它已成为倡导流离失所者权利的各种活动的基础。秘书长代表希望各国政府认真审查《框架》中所载的各项步骤，将其视作是最有效地处理国内流离失所问题的一项指南。捐助国政府也不妨审查国家责任的各项基准，将其作为决定是否提供资金援助有流离失所问题的各国政府时考虑的一项关键内容。

Annex

**REPORT OF THE REPRESENTATIVE OF THE SECRETARY-GENERAL ON
THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS**

Addendum: Framework for national responsibility

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I. INTRODUCTION

1. It is well recognized, and often emphasized, that because internally displaced persons (IDPs) remain within their country, they should, in accordance with established principles of international law, enjoy the protection and assistance of their own Governments.* Indeed, Governments regularly insist that they have the primary responsibility for ensuring the security and welfare of their internally displaced populations. That responsibility for protecting and assisting the internally displaced rests first and foremost with their national authorities is a core concept reflected in the Guiding Principles on Internal Displacement, which set forth the rights of IDPs and the obligations of Governments towards them, and also is a central tenet guiding international and regional approaches to internal displacement. But what, concretely, does national responsibility towards IDPs mean? How can it be measured? Promoted? Reinforced? Supported? These are questions that are critical to address if national responsibility for IDPs is to be realized. Measurable indicators or benchmarks are needed to provide guidance to Governments in discharging this responsibility and as a basis for assessing whether it is being effectively exercised. To this end, a Framework for national responsibility is presented in the present report, which sets forth benchmarks for addressing internal displacement. In particular, 12 key steps for Governments to take towards fulfilling national responsibility for internal displacement are identified:

1. Prevent displacement and minimize its adverse effects;
2. Raise national awareness of the problem;
3. Collect data on the number and conditions of IDPs;
4. Support training on the rights of IDPs;
5. Create a legal framework for upholding the rights of IDPs;
6. Develop a national policy on internal displacement;
7. Designate an institutional focal point on IDPs;
8. Encourage national human rights institutions to integrate internal displacement into their work;
9. Ensure the participation of IDPs in decision-making;
10. Support durable solutions;
11. Allocate adequate resources to the problem;
12. Cooperate with the international community when national capacity is insufficient.

2. Taken collectively, these benchmarks constitute a framework for action for fulfilling national responsibility in situations of internal displacement. The purpose of this Framework for

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national responsibility is to provide guidance to assist Governments in addressing internal displacement in their countries and in meeting their obligations towards their displaced populations. Its primary focus accordingly is on identifying a number of key steps that Governments can take in situations of internal displacement. At the same time, this Framework recognizes the important role, and in some cases also responsibilities, of other actors, including national human rights institutions, regional bodies, international organizations, donors and civil society in promoting, reinforcing and assisting the fulfilment of national authorities' responsibilities to protect and assist the internally displaced. This Framework, therefore, is intended also to serve as a tool enabling international organizations and agencies, donors, regional bodies, national human rights institutions, civil society and, of course, IDPs themselves to monitor and assess the extent to which national responsibility is being effectively exercised, and thereby provide a basis for advocacy efforts for protecting the rights of the internally displaced.

II. THE GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

3. That primary responsibility for protecting and assisting IDPs rests with their national authorities is a theme that underpins and is underscored throughout the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex), which set forth the rights of IDPs and the obligations of Governments towards them. Developed at the request of Governments, as expressed in resolutions of the General Assembly and Commission on Human Rights, the 30 principles provide a normative framework for understanding what national responsibility should entail. Indeed, the Guiding Principles have been recognized by Governments worldwide as an important tool and standard for addressing situations of internal displacement, and which States have been encouraged to widely disseminate and use.¹ Promoting and disseminating the Guiding Principles is an important way to give recognition to the rights and special needs of IDPs and to reinforce government obligations toward these populations.

4. To begin with, the Guiding Principles should be translated into local languages and widely distributed to local and national officials, non-State actors, and non-governmental organizations (NGOs). So too should the Annotations, which spell out the international legal standards on which the Guiding Principles are based, as well as the Handbook for Applying the Guiding Principles, which contains practical steps for making the Principles operational.² Training sessions in the Guiding Principles and on the standards of international humanitarian and human law on which the principles are based also can prove valuable in raising awareness of the rights of IDPs and of the responsibilities of Governments and other authorities towards them.

5. Convening national seminars on internal displacement is another helpful way of raising awareness of the Guiding Principles. Such seminars should seek to bring together local, regional and national government officials, local NGOs and other civil society groups, international organizations and, certainly, representatives of IDP communities to discuss the different aspects of internal displacement in terms of the principles and promote joint strategies for addressing the problem.

6. The principles have in addition served as an important framework for monitoring conditions in different countries. They also provide guidance for developing national laws and policies to address internal displacement. Indeed, United Nations resolutions have encouraged Governments to develop national laws and policies for the protection and assistance of their internally displaced populations taking into account the Guiding Principles.³ Overall, the Guiding Principles provide a normative framework that should be the basis for national as well as international responses to internal displacement.

III. FUNDAMENTAL CHARACTERISTICS OF A NATIONAL RESPONSE

7. A national response, by definition, needs to be inclusive, covering all situations of internal displacement and groups of IDPs without discrimination. Specifically, this means that national responsibility for internal displacement needs to be comprehensive in several different respects:

- *All causes*: National responsibility for internal displacement applies to persons internally displaced in situations of conflict, communal strife and serious violations of human rights as well as IDPs uprooted as a result of natural and human-made disasters, development projects and other causes. In other words, national responsibility for addressing internal displacement needs to be carried out for the benefit of all persons fitting the definition of IDPs found in the Guiding Principles, which define IDPs as:

“... persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border”.

8. Though the needs of IDPs may vary, depending on the cause of their displacement, it is important to underline that *all* IDPs are entitled to the protection and assistance of their Government. National responsibility therefore means ensuring that IDPs receive comparable help and treatment without discrimination and regardless of the reason for their displacement.

- *All groups*: The overwhelming majority of displaced populations are women and children. They experience particular protection, assistance and reintegration needs, which routinely are overlooked or not addressed with priority. Moreover, women and children, in particular girls, frequently face discrimination in obtaining assistance, having documents in their own names, accessing education and income-generating opportunities, and having their voices heard. National authorities have a responsibility to ensure that the special protection and assistance concerns of particular groups within IDP populations, including women heads of household, unaccompanied minors, persons with disabilities, and the elderly, are taken into account and addressed.

9. Internal displacement is also a phenomenon that disproportionately affects minority ethnic groups, indigenous populations and the rural poor. Once displaced, these already marginalized groups often face discrimination in accessing protection and assistance because of ethnic, racial or ideological stigmas, which further heighten their vulnerability. Because of language barriers, they may even have difficulty in communicating with government authorities and knowing their rights. Moreover, in the case of indigenous populations, they have a special attachment to the land, which makes displacement particularly difficult in their case. National responses to internal displacement must be guided by the principle of non-discrimination.

10. Indeed, a national response should seek to remedy the social, economic, and political cleavages that give rise to the exclusion of certain groups from the political and economic life of the nation and cause injustices and social divides that tear societies apart and fuel displacement:

- *All needs:* National responsibility for internal displacement requires addressing the problem in all its aspects. Attending to IDPs' needs for food, clean water, shelter, medical care and other basic humanitarian assistance of course is critically important. However, a national response also requires, and its effectiveness depends on, an integrated approach that addresses protection as well as assistance concerns. This is true even in situations of natural disaster when, although the material relief may be the most visible need, serious protection issues nonetheless can arise. Protection, moreover, denotes the range of political and civil rights as well as social, economic and cultural rights;
- *All phases:* National responsibility extends across all phases of displacement. It includes preventing arbitrary displacement, ensuring the security and well-being of persons once they are displaced, and creating the conditions for durable solutions to their plight, namely through voluntary and safe return or resettlement and reintegration. Decisions as to "when internal displacement ends" must be taken on the basis of objective criteria ensuring respect for the human rights of the internally displaced;⁴
- *All relevant levels and branches of Government:* To be truly national, a Government's response to internal displacement must be reflected at all levels of Government. Certainly, officials in the capital are likely to play a strong role in shaping a Government's response to internal displacement. However, authorities at the regional and local levels, who are likely to be more directly in contact with displaced populations, also have a critically important role to play in ensuring that national responsibility is effectively discharged on the ground. Moreover, a national response requires the collective contributions of all relevant branches of government, including the humanitarian, human rights, health, housing, education, development and political sectors. Special mention must be made of the military and police, who have particular responsibilities for ensuring IDPs' physical safety;

- *All affected areas*: Especially in situations of internal armed conflict, Governments may not have effective control over all parts of the country. Around the world, millions of IDPs are found in areas under the control of non-State actors and out of reach of government assistance and protection. The effective exercise of national responsibility requires undertaking or at least facilitating efforts to access, assist and protect these IDPs. Opening humanitarian space in these areas provides an opportunity also to remind non-State actors of their responsibilities: under international humanitarian law and the Guiding Principles, they too have responsibilities to provide protection and assistance to the internally displaced. Governments may therefore find it valuable to enlist the support of NGOs, church groups, donors or the United Nations to help open humanitarian space to ensure the protection and assistance of IDPs in areas under the control of non-State actors and, ultimately, also to resolve the conflicts in which these IDPs are caught.

IV. BENCHMARKS OF NATIONAL RESPONSIBILITY

11. Beyond the normative framework provided in the *Guiding Principles* and the conceptual framework identifying fundamental characteristics of a national response, there is need to clarify what, in terms of concrete steps, national responsibility for addressing the problem of internal displacement should entail. Definite indicators or benchmarks of national responsibility can indeed be identified. There are, in particular, 12 key steps that Governments can take towards ensuring the effective exercise of national responsibility and the protection of the rights of the internally displaced. Though not an exhaustive list, these benchmarks comprise the main steps towards realizing national responsibility, which, if taken by Governments, could yield important results for the protection and assistance of the internally displaced.

1. Prevention

12. First and foremost is prevention. Governments have a responsibility, elaborated in the Guiding Principles (principles 5-9), to prevent and avoid conditions on their territory that might lead to population displacement, to minimize unavoidable displacement and mitigate its adverse effects, and to ensure that any displacement that does occur lasts no longer than required by the circumstances. In particular, individuals are to be protected against arbitrary displacement. To this end, preventive strategies, including cultivating an environment of respect for human rights and international humanitarian law as well as developing early warning and rapid response mechanisms to protect populations under threat, are critical for Governments to undertake.

13. Any decision requiring the displacement of persons must, to be lawful, meet the conditions and comply with the guarantees elaborated in principle 7, including that all feasible alternatives to displacement first are explored. The authorities must also take measures to ensure proper accommodation for the displaced, that any displacement is effected in conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated. If displacement occurs in situations other than during the emergency stages of armed conflict or disasters, the following steps need to be taken by the national authorities:

- Ensuring that a specific decision authorizing the displacement has been taken by a government authority empowered by law to order such measures;

- Informing the displaced of the reasons and procedures for their displacement as well as of arrangements for compensation and relocation, where applicable;
- Seeking the free and informed consent of those to be displaced;
- Involving those affected, particularly women, in the planning and management of their relocation; and
- Ensuring the right of those affected to an effective remedy.

14. As an overarching principle, displacement must not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected. Moreover, Governments have a particular obligation to protect against the displacement of indigenous groups, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

2. Raise national awareness of the problem

15. When internal displacement does occur, a Government's acknowledgement of the existence of the problem on its territory and of its responsibility to address it is an essential first step towards an effective national response. Public pronouncements, use of the media, and the development of strategies by the Government to address the plight of internally displaced populations are among the means of conveying its recognition of the problem and its responsibility to address it. A Government's acknowledgement and use of the Guiding Principles would also be an important indication of its recognition of the special needs of IDPs as well as of government obligations to address their needs and protect their rights.

16. Recognition of internal displacement also requires raising national awareness about the problem, building a national consensus around the issue, and making efforts to address the crisis as a national priority. It also must entail promoting national solidarity with the displaced. This is critical for their protection and for counteracting the ethnic, racial, and ideological stigmas that IDPs in many cases suffer. These stigmas put IDPs at further risk, discourage them from making their needs known, augment their invisibility, and make reintegration difficult due to their increased marginalization.

17. Efforts to raise national awareness should include sensitization campaigns that reach all relevant authorities, including the military and police, and also extend into the public sphere, so that national responsibility for addressing internal displacement becomes a concept embraced and implemented by all parts of society. Such campaigns will be most effective when they are developed in consultation with civil society and displaced communities. Indeed, an important component of public information campaigns on internal displacement should be to sensitize government authorities as well as the public about the humanitarian nature of the work of local NGOs and other civil society groups assisting IDPs and advocating on their behalf, who often must undertake these efforts in conditions that put their physical security at grave risk.

3. Data collection

18. Credible information on the numbers, locations and conditions of the internally displaced is essential to designing effective policies and programmes to address their needs and protect their rights. Data should be disaggregated by age, gender, and other key indicators so that the specific needs of particular groups of IDPs, such as women heads of household, unaccompanied minors, the elderly, persons with disabilities, ethnic minorities and indigenous persons, can be adequately addressed. It must cover all IDPs, whether they are in camps, staying with host families or in other settlements. Attention must also be given to the different categories of IDPs, including those uprooted by armed conflict, generalized violence and human rights violations as well as those displaced by natural disasters, development projects, and other causes. Moreover, information is needed not only on IDPs in emergency situations, but also those in protracted situations of displacement, with updated data as IDPs' needs change over time. Efforts must also be made to collect information about displaced populations who live in areas controlled by insurgent groups.

19. It is important to underline that efforts to collect data on IDPs should not in any way jeopardize their security, protection, and freedom of movement. In particular, there is a need to be sensitive to the situation of displaced persons who may be fearful of making themselves known and may see little incentive to do so, or who do not have proper documentation. Information gathering must be geared to protecting and assisting the internally displaced and helping them find solutions to their plight. Local NGOs and researchers as well as a number of international organizations and NGOs have experience and expertise in gathering data about displaced populations and could be enlisted to assist Governments in their data collection efforts.

20. Overall, efforts to gather data on the problem of internal displacement in a country should have as their aim to obtain a clearer picture of the numbers, needs and conditions of IDPs, with a view to enhancing efforts to assist and protect them. Data collection efforts therefore are essentially programmatic in purpose. Whether or not IDPs participate in data collection surveys or other administrative initiatives (including registration processes) has no bearing on their legal entitlements to enjoy the protection and assistance of their Government.

4. Training on the rights of IDPs

21. Training government officials on the rights of IDPs can be essential for ensuring that they are aware of their responsibilities for protecting and assisting the internally displaced. It is also part of building government capacity and accountability to effectively fulfil these responsibilities. In particular, training should target:

- Government policy-makers at the national level;
- Government officials at the regional and local levels, who are in more direct contact with the displaced and are responsible for implementing government policy and programmes in the field;
- Military and police, who are expected to play a key role in ensuring IDPs' protection;

- IDP camp administrators as well as officials responsible for humanitarian assistance and the protection of human rights;
- Commissioners and staff of national human rights institutions;
- Parliamentarians, as they play a leading role in the development of legislation;
- Governments should also welcome training on the rights of IDPs for civil society and, most importantly, for IDPs themselves, who of course are entitled to know their rights.

22. Training should address the rights of IDPs and the responsibilities of Governments towards them, as spelled out in the Guiding Principles, and should cover all phases of displacement, from prevention to emergency response to finding durable solutions. A set of training modules covering these issues exists, which Governments may find useful to draw upon in their own training initiatives or to request training workshops. Indeed, it was in response to a government request for training on IDPs that these modules were first developed by the Norwegian Refugee Council's Global IDP Project and the Office of the United Nations High Commissioner for Human Rights in 1999.⁵

23. It can also be valuable for training to address the measures that Governments can take and the different policy options available for effectively discharging national responsibility towards IDPs. Noteworthy in this regard is the course manual *Essentials of Migration Management: A Guide for Policy Makers and Practitioners* developed by the International Organization for Migration, which contains a module on internal displacement. In addition to underscoring the importance of national responsibility for addressing internal displacement and highlighting the relevance of the Guiding Principles, this module identifies and explains the key steps that Governments can take towards fulfilling their responsibility towards the internally displaced.⁶ Another instructive report is one published by the Commonwealth, which presents a set of national "best practices" for Commonwealth member States in addressing internal displacement.⁷ Further, a regional seminar on Internal Displacement in the Americas endorsed a framework of action on national responsibility for Governments in the region.⁸

5. A national legal framework upholding the rights of IDPs

24. Because protection is, fundamentally, a legal concept, developing a national legal framework upholding the rights of IDPs is a particularly important reflection of national responsibility as well as a vehicle for its fulfilment. In countries in all regions of the world, the adoption of legislation on internal displacement has proved valuable in defining IDPs, setting forth their rights, and establishing the obligations of Governments towards them. In some instances, Governments have adopted laws on a specific phase of displacement, such as return and resettlement, which have spelled out minimum standards to be observed. In other instances, Governments have adopted comprehensive national laws on internal displacement, covering all phases of displacement. Another approach has been to review and analyse existing national legislation in terms of its compatibility with the Guiding Principles on Internal Displacement and to revise legal and administrative regulations accordingly. Local lawyers' groups and NGOs have conducted such surveys in some countries, using the Annotations to the Guiding Principles as a guide, and then worked with their Governments to bring their laws into line with the Principles.⁹ Whichever approach is taken, national legislation on internal displacement should

be in line with international standards, as set forth in the Guiding Principles. Indeed, Governments worldwide have, in United Nations resolutions, encouraged States with internally displaced populations to develop strengthened national legal frameworks on internal displacement, taking into account the Guiding Principles.¹⁰ This call has been echoed at the regional level, with specific reference to the Guiding Principles as a useful tool for developing national laws and policies on internal displacement.¹¹ To assist these efforts, the Representative of the Secretary-General on the human rights of internally displaced persons is developing a domestic legislators' manual identifying and providing legal guidance on the key elements for inclusion in national legislation on internal displacement.

6. A national policy or plan of action on internal displacement

25. The adoption of a national policy or plan of action on internal displacement is a distinct, though complementary, measure to the enactment of national legislation. For instance, a national policy or plan of action on internal displacement should spell out national and local institutional responsibilities for responding to internal displacement, indicating the roles and responsibilities of different government departments, as well as identify a mechanism for coordination among them. Using the Guiding Principles as a framework, a national policy or plan of action should cover all phases of displacement, ranging from preventive actions to protection and assistance once displaced, to return or resettlement and reintegration. Particular emphasis should be placed on preventing arbitrary displacement, with specific measures elaborated for avoiding the conditions that cause displacement and minimizing displacement's adverse effects. A national policy or plan of action should also encompass the various causes of displacement, including not only conflict and human rights violations, but also displacement due to natural and human-made disasters and development projects. Moreover, it should elaborate measures to address the particular needs of specific groups of IDPs, such as women heads of household, children and the elderly, as well as indigenous persons and ethnic minorities.

26. A national policy on internal displacement will be most effective when developed in full consultation with IDP communities. Once completed, the policy or plan of action should be widely disseminated, especially to IDPs, in their own language and in a format they can easily understand. In formulating and carrying out policies and programmes for IDPs, it is important for Governments to also work closely with civil society groups and local NGOs working with the internally displaced and advocating on their behalf. The close contact that these groups have with the displaced often means that they are well placed to reflect the aspirations of IDPs and provide a voice for their views, as well as to suggest strategies for addressing their needs and protecting their rights. Readiness to develop and adopt national policies and plans of action on internal displacement provides an important indication of a Government's recognition of the problem of internal displacement and of its responsibilities to address it, and signals both nationally and internationally that doing so is a national priority. United Nations resolutions have encouraged Governments of countries experiencing internal displacement to adopt national plans or initiatives to provide protection and assistance to IDPs.¹²

7. A national institutional focal point for IDPs

27. Designating a national institutional focal point on internal displacement can be essential to ensuring sustained attention to the problem and also to facilitating coordination within the Government and with local and international partners. A number of different institutional options exist. In some countries, responsibility for the internally displaced is added to the mandate of an existing government agency, such as the government body charged with refugee issues or the department of social welfare. In other countries, a body is designated to focus exclusively on IDPs. In still other cases, a government committee, working group, or task force on IDPs is established that regularly brings together officials from the relevant ministries and departments to jointly discuss IDP needs, facilitate coordination including with the international community, and develop strategies for ensuring an effective response.

28. Whichever institutional option is selected, it is critical for the national institutional focal point for IDPs to have a mandate for both protection and assistance. Its staff should be trained on issues of internal displacement, in particular the Guiding Principles, and be expected to play a leading role in national efforts to verify that the rights of IDPs are respected and their needs addressed. This would also include ensuring that IDPs have options as regards durable solutions to displacement, namely return or resettlement, and that they are not pressured to return or resettle in areas where conditions are insecure or unsustainable. To be effective, this body of course will require political authority as well as adequate resources to carry out its mandate.

29. Collaboration with NGOs and other civil society groups advocating on behalf of the internally displaced can only benefit the work of the institutional mechanism charged with responsibility for coordinating national efforts for IDPs. National as well as international responses to situations of internal displacement are better informed, assisted and enhanced when partnerships are forged with civil society groups working with the internally displaced. Such partnerships are also cost-effective, given that bringing in “experts” from abroad can be highly expensive; moreover, outside experts often depart after a short period of time without leaving local capacity any stronger. Building into national plans and programmes for helping IDPs’ measures for strengthening local capacity and further developing the skills of NGOs and other groups in civil society therefore can prove valuable.

8. A role for national human rights institutions

30. It is well recognized that national human rights institutions make an important contribution to national efforts promoting and protecting human rights. They enjoy official recognition by Governments and also often command significant respect within national societies as they usually are headed by influential and eminent people, including retired judges or respected human rights activists. In countries with internal displacement, national human rights institutions have a valuable role to play in protecting and promoting the human rights of IDPs, as indeed has been recognized and encouraged by Governments in United Nations resolutions.¹³ Although many national institutions, especially in developing countries, lack capacity, they are beginning increasingly to focus attention on the issue of internal displacement.¹⁴ In support of these efforts, the Asia Pacific Forum of National Human Rights Institutions, for instance, has developed a project to assess the capacities of its member institutions with regard to internal displacement and mobilize assistance to help them enhance their capacities.

31. Best practice in dealing with internal displacement would mean that Governments acknowledge internal displacement as a human rights issue that belongs within the mandate of national human rights institutions and that they apportion greater resources to these institutions so that they can address the subject. Among the steps that national institutions could take to promote and protect the rights of the internally displaced would be to:

- Monitor IDP conditions to ensure that IDPs enjoy the same rights as other citizens in the country and do not face discrimination in seeking to access their rights and that they receive the protection and assistance they require;
- Conduct inquiries into reports of serious violations of IDPs' human rights and work to ensure an effective response by the authorities;
- Follow-up on early warnings of displacement and ensure that effective measures are taken by the authorities to protect populations against arbitrary displacement and that decisions taken by the authorities to displace populations are implemented in accordance with the guarantees set forth in the Guiding Principles;
- Advise the Government on the rights of IDPs, in particular working with national legislative bodies in the development of national laws on internal displacement, based on the Guiding Principles, and helping to frame policies and plans of action, in collaboration with government officials, to effectively address situations of internal displacement;
- Monitor and report on Governments' implementation of national legislation and compliance with international treaty obligations as well as on implementation of national policies and plans of action for IDPs;
- Undertake educational activities and training programmes, especially for State institutions, the military and law enforcement agencies on the rights of IDPs, with special attention paid to raising awareness of the particular protection and assistance concerns of women, children and other groups who experience heightened vulnerability;
- Ensure that IDPs are informed about the initiatives being taken on their behalf and are invited to contribute ideas and to participate in the decision-making;
- Forge strong relationships with IDP associations as well as local NGOs and representatives of civil society advocating for the protection of IDP rights;
- Establish a monitoring presence in areas where IDPs' physical security is at grave risk;
- Monitor the return or resettlement of IDPs to ensure that it is voluntary and occurs in conditions of safety;

- Network with national human rights institutions in other countries and relevant regional bodies to share information and experiences on internal displacement with a view to developing best practices.

9. Participation by IDPs in decision-making

32. Internally displaced persons have the right to request, and to receive, protection and humanitarian assistance from their Governments. An environment must exist where IDPs can make their views known without risk of punishment or harm. Too often, however, IDPs are simply on the receiving end of assistance and programmes, with no power to influence how policies and programmes are designed and little opportunity to voice their concerns. Yet, consultation with the displaced is critical to the effectiveness of efforts to provide them with protection and assistance. IDPs, after all, are best placed to know their needs and ways of addressing them. Moreover, IDPs generally develop “coping skills” for dealing with their situation.¹⁵ Programmes for the displaced will be most effective when they reinforce and build upon IDPs’ skills.

33. National as well as international responses to internal displacement can be significantly informed and enhanced through consultation with IDPs. Indeed, Governments have a responsibility to encourage and facilitate the participation of IDPs in the planning and implementation of policies and programmes for addressing their needs and protecting their rights. This would include ensuring that IDPs play strong roles in camp management.

34. Special attention should be paid to ensuring the participation of internally displaced women in IDP consultations and in any formal decision-making structures. As primary care providers for their families, displaced women have the best sense of what is needed to ensure their own and their families’ welfare and security. Consultation with women and girls also enables them to raise particular protection and concerns they may face, such as sexual violence and exploitation as well as reproductive health issues, which likely will go overlooked if only men speak for the group. In particular, women’s input should be sought with regard to food distribution and the contents of the food basket, the design and layout of camp facilities or other settlements, and water and firewood collection, all of which can have implications for the physical security of displaced women and children.

35. Consultation with the displaced should occur in all phases of displacement. In particular, any decisions for relocation of the displaced are to be taken in consultation with those affected, and should involve the displaced, particularly women, in the planning and management of the relocation. In the distribution of humanitarian assistance, special efforts should be made to ensure the full participation of women in the planning and distribution of these supplies. This is critical to mitigating the risk of sexual extortion and exploitation that women can face in obtaining food rations for themselves and their families. When it comes to finding durable solutions to displacement, moreover consultation with the displaced is a key component of respecting the right of the displaced to voluntary return. In addition, special efforts should be made to ensure the full participation of IDPs in the planning and management of their return or resettlement and reintegration.¹⁶

36. Moreover, the views of IDPs should be systematically sought out, and taken into account in peace processes and other efforts to resolve situations of internal displacement. In addition, national responsibility entails safeguarding for IDPs the right to political participation, as affirmed in principle 22 (d) of the Guiding Principles. Frequently, IDPs face obstacles in exercising their right to vote and thereby to having a say in the political and economic decisions affecting their lives.¹⁷

10. Durable solutions

37. National responsibility for internal displacement extends to ensuring that IDPs have access to a durable solution to their plight. This means making every possible effort to facilitate the return or resettlement of IDPs in accordance with their rights. Overall, Governments have a duty to establish conditions and provide the means to allow IDPs to return voluntarily, in safety and dignity, to their places of habitual residence or, if they choose, to resettle in another part of the country. Safety is an essential element of durable solutions and of the protection of the rights of the displaced. In cases of conflict-induced displacement, this typically will require an end to the conflict or a fundamental change in the circumstances that originally caused the displacement. Landmines will also need to be cleared.

38. Regardless of the cause of displacement, protection mechanisms must be put in place in areas of return or resettlement, in particular through the re-establishment of the rule of law and measures to ensure respect for human rights. Under no circumstances should IDPs be encouraged or compelled to return or resettle to areas where their life, safety, liberty or health would be at risk (principle 15 (d)). Where possible, monitors should accompany returns in order to verify that the process is voluntary and occurs in conditions of safety. Further, the authorities have a responsibility to assist IDPs to recover property and possessions of which they were dispossessed as a result of their displacement and, when this is not possible, to obtain compensation or another form of just reparation. A number of particular challenges can arise. In many cases, few of the displaced possess formal title or other evidence of land and property ownership. Where these did exist, property records, both individual and those maintained by authorities, may have been destroyed in the course of conflict or as a result of a natural disaster causing displacement. Moreover, national laws and customs on property ownership and inheritance often discriminate against women who, especially when their husbands have been killed, then experience particular difficulty in returning to their homes and land and, consequently, also in recreating a means of livelihood to support themselves and their families. Government authorities should anticipate these problems and address them in line with international human rights standards and in an equitable and non-discriminatory manner.

39. Whether IDPs choose to return or to resettle, national authorities also have a responsibility to facilitate their reintegration and foster conditions enabling them to rebuild their lives. Indeed, strategies promoting IDPs' restoration of a livelihood and means of self-reliance should be introduced as soon as possible after displacement occurs so as to avoid creating long-term dependency and instead to facilitate their eventual reintegration when return or resettlement becomes possible. During return or resettlement, IDPs should have access to reintegration assistance packages, including essential items such as seeds, tools and plastic sheeting for temporary shelter.

40. In addition, so long as the specific needs and vulnerabilities resulting from their displacement persist, IDPs will continue to require special attention and support. Decisions that “displacement has ended” must not be taken arbitrarily, without due regard to the situation, needs and rights of the displaced. The nature of assistance to IDPs nonetheless could gradually change from strictly emergency humanitarian aid to more development-oriented strategies supporting self-sufficiency and enabling the economic and social reintegration of the displaced. Such measures should, of course, be undertaken in step with initiatives to assist other populations in need and in conjunction with broader government efforts to rebuild infrastructure (e.g. schools, health clinics, roads, etc.) in areas of return and resettlement. Special attention should be given to ensuring the equal participation of women in reconstruction and rehabilitation projects as well as their equal access to income-generation and microcredit programmes. Steps must also be taken to ensure that IDPs are not subjected to discrimination upon their return or resettlement, that they have equal access to public services including health care and education, and they can exercise their right to participate fully and equally in public affairs, including the right to vote.

41. In short, supporting durable solutions for IDPs entails ensuring that they have options - to voluntarily and safely return or resettle as well as the possibility to re-establish themselves, regain their livelihoods and reintegrate back into society. In this connection, reference to studies highlighting best practices with regard to IDP return or resettlement can prove valuable.¹⁸ Finally, a Government’s commitment to durable solutions requires undertaking efforts to ensure that conflicts or other causes of displacement that could have been avoided are effectively resolved. To be truly effective and lasting, solutions in these cases must include addressing the fundamental social, economic and political injustices that are typically the root causes of conflict and displacement. In situations of displacement caused by ethnic conflict or communal violence, initiatives to promote reconciliation, for instance, through mechanisms such as Truth Commissions, and address issues of impunity are particularly critical.

11. Adequate resources

42. Carrying out policies and programmes for IDPs and providing them with necessary assistance (including food aid, shelter, medical care, education, reintegration assistance, etc.) as well as ensuring their physical security inevitably requires human and material resources. National responsibility therefore requires that Governments devote, to the extent possible, resources to address the needs and protect the rights of their internally displaced populations. Some countries have made efforts to do so by specifically designating funds in the national budget for IDP programmes. Governments can also create special “IDP funds” furnished with the benefit of earmarked funds from the revenue from oil or other resources.

43. This is not to say that Governments need to carry the financial burden of addressing internal displacement entirely alone. Indeed, where a Government lacks sufficient capacity to address the needs of the internally displaced, it can and indeed should turn to the international community for assistance. Even then, a Government’s indication, through whatever budget allocations are possible as well as through policy and programme initiatives, that the issue of internal displacement constitutes a national priority can be important for securing international commitments to provide financial support to national efforts.

12. Cooperation with international and regional organizations

44. When Governments do not have the capacity to provide for the security and well-being of their displaced populations, they should, as an exercise of responsible sovereignty, invite or accept international assistance and work together with international as well as regional organizations in addressing the protection and assistance needs of the displaced and identifying durable solutions to their plight. Another sign of national responsibility therefore is cooperating with, and giving safe and unimpeded access to, regional and international organizations seeking to undertake efforts on behalf of the internally displaced.

45. Indeed, the Guiding Principles emphasize the importance of national authorities granting “rapid and unimpeded access” to international humanitarian organizations so that they might reach IDP populations and provide them with needed assistance. Because these organizations under international law have the right to offer their services, such offers should not be regarded as unfriendly acts or as interference in a State’s internal affairs. International humanitarian organizations should also enjoy access to displaced persons to assist in their return or resettlement and reintegration.¹⁹

46. Accepting international assistance should also mean providing security and protection for the humanitarian staff who deliver the aid. Persons engaged in humanitarian assistance, their transport, and supplies should be respected and protected. To prevent attacks on staff and assist personnel who are in danger, Governments should take steps to strengthen security measures and prosecute those who commit acts of violence against such staff. When Governments are unable to discharge this responsibility, they should devise, together with the international community, alternative arrangements to ensure protection for humanitarian staff.

47. Inviting the Representative of the Secretary-General on the human rights of internally displaced persons to visit is another important way that Governments in countries with internal displacement can demonstrate their cooperation with the international community. Such visits enable the Representative to dialogue with Governments as well as to assess first-hand the conditions of IDPs and directly hear their concerns. Generally, these visits also serve to raise national awareness to the problem of internal displacement in the country, stimulate policies and programmes on behalf of the displaced and strengthen cooperation between Governments and the international community.

48. Regional and international organizations, which should be seen as partners, can reinforce and support the exercise of national responsibility for internal displacement and provide valuable support to national efforts in a number of ways, including:

- Providing technical cooperation on issues such as data collection, registration, the development of national laws and policies on internal displacement, and on issues of property restitution and compensation;
- Offering training on the Guiding Principles and on other issues of internal displacement;

- Undertaking field visits to assess the conditions of internal displacement and make recommendations for enhancing national as well as regional and international responses, and reporting on the implementation of recommendations made by international and regional human rights mechanisms;
- Bringing to the attention of the authorities early warnings of arbitrary displacement and advocating for effective responses to these threats, offering any assistance possible in support of national protection responses;
- Establishing a monitoring presence in areas, including IDP camps, where serious protection problems are reported that put IDPs' physical security at risk and developing strategies to protect IDPs against these threats, with special attention paid to the risks of sexual violence and exploitation as well as the military recruitment of children;
- Monitoring the return and resettlement of IDPs, where possible by accompanying IDPs, to verify that the process is voluntary and occurs in conditions of safety, as well as monitoring the safety of IDPs upon return or resettlement;
- Supporting the formation of IDP associations, including IDP women's associations, to buttress IDPs' own efforts to address their concerns and advocate for their rights;
- Facilitating dialogue between Governments and IDPs as well as with NGOs;
- Assisting IDPs located in areas outside of government control and reinforcing the responsibilities of non-State actors, under international humanitarian law and the Guiding Principles, to protect and assist the displaced, as well as facilitating negotiations, where possible, between the Government and non-State actors for the creation of humanitarian space and an end to conflict;
- Supporting Governments that demonstrate efforts to effectively discharge national responsibility for internal displacement with technical cooperation as well as with any required assistance in resource mobilization and the administration of funds.

49. Overall, and especially when national capacity is insufficient, cooperating with international and regional organizations to address the problem of internal displacement is a form of national responsibility. Of course, international and regional efforts to help strengthen national capacity to deal with situations of mass displacement will be especially effective where the State is willing but not able to discharge its responsibilities to ensure the protection and well-being of its internally displaced populations. In situations where the political will for addressing the problem is inadequate at the national level, the engagement of the international community is just as, if not more, important, for reinforcing national responsibility. Even in such cases, however, the aim must be not to substitute but to strengthen national efforts for protecting and assisting the internally displaced.

V. CONCLUSIONS

50. The global crisis of internal displacement presents a challenge that, because of the magnitude and complexity of the problem, can seem overwhelming to address. Yet, the starting point is clear: protecting and assisting internally displaced persons is a responsibility that rests first and foremost with their Governments. The rights of the internally displaced as well as the responsibilities of national and other authorities towards them also are now well known, set forth in the Guiding Principles on Internal Displacement, which have become the internationally recognized standard for addressing situations of internal displacement. Less clear, however, have been the concrete measures that Governments can take to ensure that these rights and responsibilities are effectively realized.

51. This Framework for national responsibility identifies 12 key steps towards filling this gap, that Governments can take to demonstrate and effectively discharge their responsibilities for addressing internal displacement. Individually, each of these measures stands to enhance national efforts and benefit the internally displaced. Collectively, they comprise the core components of a comprehensive response to the problem of internal displacement and, more specifically, to the plight of the millions of internally displaced around the world who rely on their Governments to protect and assist them.

Notes

¹ General Assembly resolution 58/177 of 22 December 2003, para. 7, and Commission on Human Rights resolution 2004/55, para. 6.

² Walter Kälin, *Guiding Principles on Internal Displacement. Annotations*, Studies in Transnational Legal Policy, No. 32 (American Society of International Law and the Brookings Institution Project on Internal Displacement, 2000); *Handbook for Applying the Guiding Principles on Internal Displacement* (Brookings Institution and United Nations Office for the Coordination of Humanitarian Affairs, 1999).

³ Economic and Social Council resolutions 2004/5 of 23 July 2004, para. 39, and 2003/5 of 15 July 2003, para. 9.

⁴ Further to a request from the United Nations Emergency Relief Coordinator and Under-Secretary-General on Humanitarian Affairs for guidance on when an internally displaced person should no longer be considered as such, benchmarks on durable solutions for IDPs are being developed by the Brookings Institution-Bern Project on Internal Displacement, in collaboration with the Institute for the Study of International Migration at Georgetown University and the Global IDP Project of the Norwegian Refugee Council. These benchmarks will be presented by the Representative of the Secretary-General on the human rights of internally displaced persons to the United Nations in 2005. See Erin Mooney, "Bringing the end into sight for internally displaced persons", *Forced Migration Review*, Issue 17 (May 2003), pp. 4-6.

⁵ The training modules are available at: www.idpproject.org.

- ⁶ Essentials of Migration Management for Policy Makers and Practitioners: Course Manual (International Organization for Migration, 2004).
- ⁷ Commonwealth Secretariat, Human Rights Unit, Report of the Expert Group Meeting on Internal Displacement in the Commonwealth: Common Themes and Best Practice Guidelines, 19-21 May 2003 (June 2004).
- ⁸ E/CN.4/2005/124, report of the former Representative of the Secretary-General on internally displaced persons, Francis M. Deng, on the Regional Seminar on Internal Displacement in the Americas, Mexico City, 18-20 February 2004.
- ⁹ See Roberta Cohen, Walter Kälin and Erin Mooney (eds.), *The Guiding Principles on Internal Displacement and the Laws of the South Caucasus*, Studies in Transnational Legal Policy, No. 34 (American Society of International Law and the Brookings Institution Project on Internal Displacement, 2003).
- ¹⁰ Economic and Social Council resolution 2004/5, para. 39.
- ¹¹ See, for example, Khartoum Declaration of the Ministerial Conference on Internally Displaced Persons in the IGAD Sub-Region, adopted 2 September 2003, Appendix E in *Conference on Internal Displacement in the IGAD Sub-Region: Report of the Experts Meeting, Khartoum, Sudan, 30 August-2 September 2003* (Brookings Institution-SAIS Project on Internal Displacement, 2003). Member States of the Economic Community of West African States (ECOWAS) similarly have recommended the development of national laws on internal displacement using the Guiding Principles as a framework and also have suggested that the development by ECOWAS of draft model legislation could provide useful guidance in this regard. See United Nations, *Report of the Representative of the Secretary-General on Internally Displaced Persons*, E/CN.4/2003/86, para. 32.
- ¹² Economic and Social Council resolution 2004/5, para. 39; see also resolution 2003/5 of 15 July 2003, para. 9.
- ¹³ Commission on Human Rights resolution 2004/55 of 20 April 2004, paras. 18 and 21; and resolution 2003/51 of 23 April 2003, paras. 18 and 21.
- ¹⁴ See, for example, Mario Gomez, *National Human Rights Institutions and Internally Displaced Persons: Illustrated by the Sri Lankan Experience* (Brookings Institution-SAIS Project on Internal Displacement, July 2002).
- ¹⁵ See Birgitte Refslund Sorensen and Marc Vincent, *Caught Within Borders: Coping Strategies of the Internally Displaced* (Norwegian Refugee Council, 2001).
- ¹⁶ Guiding Principles on Internal Displacement, principles 7 (3) (d), 18 (3) and 28.
- ¹⁷ Erin Mooney and Balkees Jarrah, *The Voting Rights of Internally Displaced Persons: The OSCE Region* (Brookings Institution-SAIS Project on Internal Displacement, November 2004).

¹⁸ See, for example, *Practitioner's Kit for Return, Resettlement and Rehabilitation* (Colombo: Consortium of Humanitarian Agencies and the Brookings-SAIS Project on Internal Displacement, 2004); and *Manual on Field Practice in Internal Displacement: Examples from UN Agencies and Partner Organizations of Field-based Initiatives Supporting Internally Displaced Persons*, OCHA Inter-Agency Standing Committee Working Group Policy Paper Series No. 1 (United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 1999).

¹⁹ Guiding Principles, principles 25 and 29 (2).

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