

When does displacement end?

by Erin Mooney

Is it too early to be asking this question? Do we need to decide when the entitlements and benefits as well as possible restrictions of IDP 'status' should end?

How are decisions currently made and with what consequences? Are common criteria needed? As we work to develop greater clarity on the criteria used to determine the end of displacement, what is the role of the IDP research community?

There is now a keen interest among IDP actors to address the issue of when, in any particular situation, the phenomenon of internal displacement can be considered to have ended. Recognising the need for a coherent response, the UN Office for the Coordination of Humanitarian Affairs (OCHA) has asked Dr Francis Deng, the Representative of the Secretary-General on Internally Displaced Persons, for advice and guidance on this issue. Many of the papers presented at this conference have touched on this theme. The question of when internal displacement ends is an issue that strikes a chord with virtually all of the stated research themes addressed at this conference.

The Brookings-SAIS Project is currently exploring this issue in collaboration with Georgetown University's Institute for the Study of International Migration. A publicly available discussion paper, legal commentary and options paper have been circulated for discussion. There are many compelling reasons why researchers, practitioners and policy makers need to reach consensus on how to decide that internal displacement has indeed ended, including:

- Operational agencies, NGOs and governments require data on the number of internally displaced people in order to formulate programmes and policies addressing their needs.
- We need to know when national – as well as international – responsibility, attention and resources should shift from a specific focus on the needs and vulnerabilities of IDPs to a more holistic community-based rehabilitation and development agenda.

- Arbitrary decisions that displacement has 'ended' mean that some displaced populations effectively disappear as a specific group of concern.
- Perhaps most importantly of all, IDPs themselves are entitled to know where they stand.

The fact that varying interpretations currently exist as to when displacement ends leads to dramatic variations in statistics which impede a co-ordinated approach. Currently, decisions on when internal displacement ends are made, if at all, on an *ad hoc* basis. The methodologies used and the conclusions reached differ among actors. To give just one example: the Global IDP Database reports that estimates of the number of IDPs in Guatemala range from zero to a quarter of a million.

Three lenses

We have been looking at this issue through three different lenses: the Guiding Principles on Internal Displacement which shape all our work, analogies with refugee law and practice and the realities of actual situations of internal displacement.

1. The Guiding Principles stipulate that "displacement shall last no longer than required by the circumstances" (Principle 6.3). Understanding what these circumstances are, and when displacement can and should be considered to end, is therefore vital for the application of the Principles themselves. The fact that the Principles do not contain a cessation clause was not an oversight on the part of the drafting team but a deliberate decision. It was recognised that the definition of 'internally displaced person' is not declaratory but is descriptive in nature, denoting the factual situation of being displaced within one's country rather than conferring a legal status to be granted, much less revoked. This does not preclude states or other actors from introducing administrative measures, such as registration for the purposes of prov-



ing entitlement to special assistance targeting IDPs. However, from the standpoint of international law, such registration processes have no bearing on the descriptive reality of being internally displaced.

An end to internal displacement would therefore be contingent on a change in the factual situation that the term denotes. For those displaced persons who remain in their country of origin, the Guiding Principles envisage three possible solutions to their situation of internal displacement: return to their home areas or place of habitual residence; integration in the localities where they go to once displaced; or resettlement in another part of the country. The Guiding Principles specify the responsibilities of national authorities to facilitate these three solutions and in particular to:

- enable return or resettlement to occur voluntarily and in "safety and dignity"
- ensure that those returning or resettling do not suffer discrimination as a result of having been displaced and are able to participate in public affairs and enjoy equal access to public services
- assist IDPs to recover or receive compensation for property and possessions destroyed or of which they were dispossessed as a result of their displacement

2. Refugee law contains cessation clauses - in Article 1C of the 1951 Convention on the Status of Refugees. Of the six circumstances mentioned under which an individual would no longer be eligible for refugee status and the international protection it affords, only one (paragraph 5, allowing for cessation if "the circumstances in connection with which [s/]he has been recognised as a refugee have ceased to exist") could be applied to internally displaced persons by analogy. However, this provision concerns the cessation of a legal status which, as noted earlier, is a concept alien to the Guiding Principles as well as to international human rights law from which they are largely derived.

Analogies with refugee law may therefore not be very helpful to the discussion of when internal displacement ends.

However, the experience of cessation of refugee status does highlight dangers that:

- application of the cessation clauses for refugees can lead to (and often has) an automatic and unwarranted assumption that internal displacement has ended as well - this was the case when UNHCR ended refugee status for all Mozambican refugees at the end of 1996
- cessation of refugee status may actually lead to an increase in the number of IDPs - this was the result both in Bosnia after the Dayton Agreement and more recently in Afghanistan as refugees were compelled to repatriate but unable to return home.

Clearly, we need an integrated and comprehensive approach to the issue of when displacement ends that takes into account the effects of such determinations on both groups of forced migrants.

3. Looking at experiences of internal displacement reveals that many different criteria are used for determining when internal displacement ends. To give just two examples of different approaches by governments:

- Colombia's decision to acknowledge IDPs as such for only three

months (with a possible once-off extension) and only if they are able to register with the state is a case where the duration of internal displacement is determined by the capacity or readiness of the state to provide emergency humanitarian assistance.

- Croatian regulations allowing for revocation of IDP 'status' and benefits for those who refuse to complete household chores in state-run centres reflect a punitive approach to the issue of when displacement ends.

Clearly, less arbitrary approaches are required.

Three sets of criteria

One way to look at the issue would be to focus on the **causes of internal displacement** and consider whether the existence of 'changed circumstances' from those that had compelled flight in the first place might signal an end to displacement. Experience in post-conflict Bosnia and Afghanistan suggests, however, that even when the immediate causal factors of displacement cease to exist a durable solution to the plight of displaced persons does not necessarily follow. Georgian and Azerbaijani IDPs are deliberately kept in a state of limbo, unable to go home in the absence of a peace settlement but in the meantime denied equal rights as citizens. Basing decisions on simply cause-based criteria can end displacement prematurely or, where the original causes persist, perpetuate a state of displacement indefinitely and to the detriment of the displaced.

A **solutions-based criteria** approach focusing strictly on when IDPs can physically return home or resettle can lead to controversy. Examples include the US Committee for Refugees deeming displacement to have ended in Guatemala in 1998 and the decision by the Sierra Leonean government and international agencies that there were no longer any IDPs as of mid 2002. In both cases, critics have pointed to lack of safety in areas of return, inadequate reintegration assistance, lack of property compensation and inability of 'ex' IDPs to vote, access public services or obtain identification documents. We must question the

argument that a mere change of address is an adequate basis on which to deem displacement to have ended.

An approach based on **needs-based criteria** determines if needs and vulnerabilities specific to IDP populations no longer exist. The displaced need not necessarily have permanently resettled or returned, and may still be in need, but they would no longer have specific needs different from the rest of the population which are attributable to their displacement. The Guiding Principles are useful in pointing to needs that would be relevant in this regard.

The way forward

We are continuing work on refining and further elaborating guidance and criteria on when internal displacement ends to be presented to the Inter-Agency Standing Committee which brings together UN and other international humanitarian, development and human rights actors. We will also convene a meeting with donors and international financial institutions, together with selected countries affected by internal displacement, to get their perspective on the issue and refine the criteria as necessary. In discussing with donors the issue of when displacement ends we must safeguard against approaches that are simply resource-driven and seeking expedient exit strategies without due regard to the needs of the displaced.

The challenge will then be to apply the criteria as a benchmark as well as a basis for advocacy in support of truly durable solutions for IDPs. Supporting effective application of the criteria will open up whole new areas of empirical research for a broad range of specialists from such various disciplines as law, political science, anthropology, sociology, demography, architecture and statistics.

I have identified at least eight follow-up questions relevant to the subject of when internal displacement ends. How can researchers and practitioners work together to:

1. bolster the criteria now being developed with monitoring mechanisms?
2. additionally include criteria for

- situations of displacement due to natural disasters and development?
3. more systematically analyse national legislation on the issue of when displacement ends?
 4. collect and disseminate more information on what actually happens to people once they return or resettle?
 5. chronicle and disseminate best practices for supporting the durability of return or resettlement as well as effective reintegration?
 6. better understand and resolve the root causes of displacement?
 7. consider the influence of urbanisation, whether as a mixed cause (together with conflict, for instance) for the original displacement or as a reason why IDPs decide not to return?
 8. develop a more nuanced notion of 'home' which embraces perspectives of the displaced and recognises that 'home' may be more a metaphysical concept than a geographical one?

Erin Mooney is the Deputy Director of the Brookings-SAIS

Project on Internal Displacement and of the Center for Displacement Studies at the School of Advanced International Studies (SAIS) of Johns Hopkins University.

Email: emooney3@jhu.edu

Documents prepared by the Project in connection with its research project on the end of IDP status are online at www.brook.edu/fp/projects/idp/idp.htm.

Forced Migration Review 17, co-edited by the Project, focuses on questions around the end of internal displacement. See www.fmreview.org