

Bringing the end into sight for internally displaced persons

by Erin Mooney

When does internal displacement end? In other words, when, in any particular situation, should internally displaced persons (IDPs) no longer be regarded as such?

Some might query whether it is too early to even be asking this question. It is only in very recent years, after all, that awareness and concern have been raised of the plight of IDPs, their specific needs and vulnerabilities, and that focused attention has begun to be devoted to developing effective international and national responses. However, there are a number of compelling reasons for addressing this question:

- Because decisions that internal displacement has ended inevitably lead to the termination of programmes addressing IDPs' particular needs and indeed to IDPs effectively disappearing as a specific group of concern, it is critical to understand the basis on which such decisions are made and the extent to which they match objective realities on the ground.
- Knowing when internal displacement ends is also important to determining 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 holistic, community-wide approach of rehabilitation and development for societies as a whole.
- Organisations and researchers engaged in compiling IDP statistics need to know **when** to stop counting. They point out that one of the reasons why it has been difficult to reach agreement on IDP figures has been the lack of clarity on when an IDP should cease to be considered as such.
- Operational agencies, NGOs, donors and governments require data on the number of IDPs in order to formulate programmes, policies and

budgets for effectively addressing their needs. Yet, owing to varying interpretations as to when displacement ends, the figures they use often differ dramatically, impeding a coordinated approach.

- Most importantly, IDPs themselves are entitled to know when the benefits and entitlements, as well as any restrictions and risks, that their designation as such entails will cease.

Answering the question of when displacement ends is not simply an academic or theoretical exercise. It can have a tremendous impact on the lives of IDPs and respect for their rights.

A question in search of answers

Currently, decisions on when internal displacement ends are made, if at all, on an *ad hoc* and arbitrary basis. Moreover, the methodologies used and, consequently, the conclusions reached differ among actors, often dramati-

ly. For example, the Global IDP Database reports that estimates of the number of IDPs in Guatemala range from zero to a quarter of a million. In Rwanda, serious differences of opinion arose among various UN agencies and offices, all using different criteria, on the issue of whether the hundreds of thousands of IDPs resettled as part of the 'villagisation' programme in the late 1990s should still be considered IDPs.

Appreciating that "operational demands ... increasingly dictate the need for a coherent response", the UN Office for the Coordination of Humanitarian Affairs (OCHA) has turned to the Representative of the Secretary-General on IDPs for advice and guidance "indicating when generically an individual would not only become an IDP but ... should no longer be considered under this category." Though "the question is not new," OCHA noted, "the answer has hitherto been quite elusive."¹

The Brookings-SAIS Project on Internal Displacement (which the Representative co-directs), in partnership with Georgetown University's Institute for the Study of International Migration, has been exploring this issue through research and a series of



UNHCR/Pagetti

consultations with international agencies, international and local NGOs and other researchers with a view to developing criteria as to when internal displacement ends.²

Three lenses

In examining this issue, we first looked through three different lenses.³

1. The Guiding Principles on Internal Displacement

The Guiding Principles, which spell out the rights and guarantees pertaining to IDPs in all phases of displacement, stipulate that "displacement shall last no longer than required by the circumstances".⁴ Yet, the Principles do not contain a cessation clause as to their application. This was not an oversight on the part of the drafting team but a deliberate decision based on the fact that the definition of IDPs used in the Principles is not declaratory but 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 (see Kälin).

For IDPs who remain in their country of origin, the Guiding Principles envisage three possible solutions to their displacement: (i) **return** to their home areas or place of habitual residence; (ii) **(re)settlement** in the localities where they go to once displaced; (iii) **resettlement** in another part of the country. The Principles specify a responsibility on the part of national authorities to facilitate these solutions and also stipulate a number of conditions to be met:

- return or resettlement to occur voluntarily and in "**safety and dignity**"
- **non-discrimination**, including the ability to participate fully and equally in public affairs and to enjoy equal access to public services
- assistance for **recovery or compensation for property and possessions** destroyed or of which they were dispossessed as a result of their displacement

These additional provisions suggest that, from the standpoint of international law, solutions for IDPs entail more than simply the physical movement of returning or resettling but

also require putting in place conditions to ensure the effectiveness of these solutions.

2. The refugee experience by analogy and implication

The 1951 Convention contains cessation clauses stipulating when an individual would no longer be eligible for refugee status and the international protection it affords, in particular when "the circumstances in connection with which [s/]he has been recognized as a refugee have ceased to exist" (see Bonoan). Though direct analogies with refugee law are difficult because, unlike the Guiding Principles, it concerns a specific legal status, it is nonetheless important to consider the possible implications that the cessation of refugee status can have on the temporal nature of internal displacement.

Application of the cessation clauses for refugees may lead to an automatic assumption that internal displacement has ended as well. For instance, UNHCR's decision to end refugee status for refugees from Mozambique as of 31 December 1996 was a decisive factor in determinations that there were no longer any IDPs in the country. Yet, that same month when the Representative of the Secretary-General on IDPs visited the country, he found that "despite the decision by the Government and the donor community to no longer target displaced groups, this in no way means that all internally displaced persons have returned." Among the reasons cited by the displaced was "a lack of confidence in the durability of peace, sometimes coupled with a reluctance to return to the area where they had experienced terror."⁵ The return of refugees or cessation of refugee status therefore is not necessarily a determining factor of when **internal displacement ends**.

Indeed, the cessation of refugee status may actually lead to an increase in the number of IDPs. Refugees may be compelled to return to their country but be unable to return home and even displaced anew, internally. This was the case in Bosnia after the Dayton Agreement. A similar phenomenon reportedly has been occurring in Afghanistan in the context of the mass refugee returns that have been taking place over the past year.

There is a need for a comprehensive approach to the issue of when displacement ends that takes into account the effects of such determinations for both refugees and IDPs.

3. Cases of internal displacement

Our review of numerous situations of internal displacement,⁶ including several also examined in this issue of *FMR*, confirms that there is no systematic approach to the issue of when internal displacement ends. For example, in some cases it is the capacity or willingness of the government to provide emergency humanitarian assistance, rather than the actual duration of the state of displacement, that is the deciding factor (see Fernandez and Vidal). In others, a date is announced when all IDPs in a country, sometimes numbering more than one million, will suddenly all cease to be considered as such (see Duncan). In still other cases, internal displacement ends as a punitive measure and for the most minor of acts of omission such as failure to do household chores in the communal centre where IDPs are staying (see Beau). In many cases, the approaches used violate the rights of the internally displaced. Less arbitrary approaches to when internal displacement ends are needed.

Possible criteria

Having examined the issue through these lenses, three sets of possible criteria have come into focus.⁷

1. Cause-based criteria: One way to look at the issue would be to focus on the causes of internal displacement and, borrowing from the refugee analogy, consider the existence of "changed circumstances" from those that had compelled flight in the first place, such as the end of a conflict or a change in government such that there is no longer a well-founded fear of persecution. Specific criteria could be developed to address situations of displacement due to natural disasters and, separately, development (see Cernea).

The experience in post-conflict Bosnia and now Afghanistan, however, suggests 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. In the reverse scenario, when the cause of displacement persists indefinitely – for instance when displacement is due to a conflict that appears to have no end in sight – one must ask whether it is in the best interests of the displaced to continue to consider them as such.

Governments, after all, may find it politically expedient to maintain IDPs, sometimes for decades, in a state of limbo unable to return in the absence of a peace settlement but equally unable to integrate into the localities where they fled – such that IDPs effectively become hostages to this label, as in Georgia and Azerbaijan (see Borsotti).

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

Basing decisions simply on cause-based criteria can end displacement prematurely or, as the original causes persist, perpetuate a state of displacement indefinitely and even to the detriment of the displaced.

2. Solutions-based criteria: Another possible approach emphasises the ability of IDPs to either return to their home communities or (re)settle in another community. For some analysts, the only true solution for IDPs is return, as the reversal of the physical movement that displacement, by definition, entails (see Frelick). The possibility of return, regardless of whether or not an IDP seizes the opportunity to do so, is the criterion that has been favoured by the US Committee for Refugees. On this basis, USCR deemed displacement to have ended in Guatemala in 1998, two years after the conflict ended. Similarly, in mid-2002, both the government and international agencies in Sierra Leone decided after a mass resettlement and return process that there were no longer any IDPs in the country (see McGoldrick). In both cases, however, these decisions have been strongly challenged on grounds that include: lack of safety in areas of return; inadequate reintegration assistance; lack of property compensation; the problem of illegal occupation of land; and the inability of IDPs who returned to vote, access public services or obtain identification documents for their children.

In Rwanda, the mass resettlement of IDPs as part of the ‘villagisation’ programme led a number of UN agencies, all using different criteria, to conclude in 1999 that there were virtually no



IDPs left in the country. However, those resettled were found to suffer basic humanitarian needs and inadequate access to land and means of self-sufficiency (see Zeender). Moreover, reports from both within and outside the UN voiced serious doubts as to the voluntariness of the operation, which was an issue also in Sierra Leone.

These and other cases call into question whether simply the act of return or resettlement – a mere “change of address” in Beau’s words – is an adequate basis on which to deem displacement to end.

3. Needs-based criteria: A third possible approach would look for when the needs and vulnerabilities specific to IDPs no longer exist. These criteria would apply to IDPs who are able to access the protection and assistance of their national governments, no longer have unmet needs on the basis of being displaced and therefore do not require special international protection and assistance. The IDPs need not necessarily have permanently resettled or returned and may still be in need (due to poverty or disability for instance) but they would no longer have specific protection, assistance and reintegration needs, different from the rest of the population, which can be attributed to their displacement and which require special attention. The Guiding Principles point to needs that would be relevant in this regard, for instance in the area of protection, lack of shelter and other deprivations resulting from displacement, documentation, and recovery of or compensation for property lost as a result of displacement.

An integrated approach

These three sets of criteria are not mutually exclusive but rather include overlapping elements. Indeed, the emerging consensus confirms the need for an integrated approach that combines solutions-based and needs-based sets of criteria to ensure that IDPs have options – to return, resettle or integrate locally – and that the specific needs and vulnerabilities created by displacement are addressed so that these solutions are effective and durable, all the while recognising that cause-based criteria will often be an enabling factor. Exactly what “durable solutions” mean for IDPs will need to be spelled out by means of cause-based and especially needs-based benchmarks measuring, as Bettocchi and Freitas suggest, both the general protection climate as well as the specific re-integration needs of IDPs in three aspects: legal, social and economic. These benchmarks, which can be derived from the rights, responsibilities and needs already identified above and, more comprehensively, from the Guiding Principles as a whole, could then constitute the basis for determining when, in any given situation, IDPs no longer need to be a subject of specific international attention and assistance.

It is important to recognise that the benchmarks being developed are certain to be met only gradually. This argues strongly against arbitrary announcements of displacement ending on a specific date or as soon as return or resettlement occurs and instead in favour of sustained monitoring of the situation of IDPs once the solution phase begins to get

underway. For IDPs even more so than for refugees, however, there is little information and analysis on what happens to people once they return or resettle. Susan Martin's article on Burundi strongly underscores this point. Assessment of the conditions upon return, resettlement or local integration, for instance using the benchmarks being developed, is therefore critically important for verifying the durability of solutions and for identifying areas where continued support, especially as regards protection (see Cohen) and reintegration assistance for IDPs (see Fagan), is required to underpin them. As the case study on current challenges in Sri Lanka illustrates (see Ariyaratne), return or resettlement is really just the beginning of what will be a gradual process of reintegration that requires support; for some time after returning or resettling, IDPs are likely still to have distinct needs requiring particular attention. In the longer term, support for durable solutions will no doubt still be required but could switch to more generic, community-wide approaches based on vulnerability rather than whether or not a person was once internally displaced.

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1. Letter from the UN Deputy Emergency Relief Coordinator to the Representative of the Secretary-General on IDPs.
2. Documents, including background papers and summary reports of consultations prepared in connection with this research project, are available on the Brookings-SAIS Project on Internal Displacement website: www.brook.edu/fp/projects/idp/idp.htm
3. Erin Mooney, *An IDP No More? Exploring the Issue of When Internal Displacement Ends* (April 2002). See: www.brook.edu/fp/projects/idp/idp.htm
4. Principle 6.3, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2
5. UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons. Profiles in Displacement: Mozambique*, UN Doc. E/CN.4/1997/43/Add.1, para. 26.
6. See in particular, Mooney, *An IDP No More?*, op. cit.
7. Susan Forbes Martin and Erin Mooney, *Criteria for Determining the End of Displacement: Options for Consideration* (September 2002). See www.brook.edu/fp/projects/idp/idp.htm



The Brookings-SAIS Project on Internal Displacement



The Brookings-SAIS Project on Internal Displacement seeks to promote more effective national, regional and international responses to the global crisis of internal displacement. It supports the mandate of the Representative of the UN Secretary-General on Internally Displaced Persons, Francis Deng (appointed in 1992), to monitor displacement problems worldwide; undertake fact-finding missions; dialogue with governments; develop and promote application of the Guiding Principles on Internal Displacement; and undertake research to enhance understanding of the problem and identify strategies for response.

The Project organises regional and national seminars and workshops and also works with civil society groups around the world. It prepared the two-volume study *Masses in Flight: The Global Crisis of Internal Displacement* and *Forsaken People: Case Studies on Internal Displacement* (Brookings, 1998) and has published numerous studies, reports and practitioners' handbooks on various aspects of internal displacement. Established in 1994, the Project is co-directed by Dr Deng and Roberta Cohen.

For more information, see www.brook.edu/fp/projects/idp/idp.htm or contact Gimena Sanchez: Tel. +1 (202) 797 6145. Email: gsanchez@brookings.edu



The Institute for the Study of International Migration (ISIM),

founded in 1998, is part of Georgetown University's Edmund A Walsh School of Foreign Service, in affiliation with Georgetown University's Law Center. ISIM focuses on all aspects of international and internal migration,

including the causes of and potential responses to population movements, immigration and refugee law and policy, comparative migration studies, the integration of immigrants into their host societies, and the effects of migration on social, economic, demographic, foreign policy and national security concerns.

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