

The Guiding Principles on Internal Displacement: a new instrument for international organisations and NGOs

by Roberta Cohen

International organisations and NGOs have an important new document to turn to when they advocate on behalf of internally displaced populations: the Guiding Principles on Internal Displacement.

As the first international standards developed for IDPs, the principles were presented to the United Nations Commission on Human Rights in April 1998 by the Representative of the Secretary-General on Internally Displaced Persons. The 53-member Commission, in a resolution adopted unanimously, took note of the principles and acknowledged the Representative's stated intention to make use of them in his work. It requested him to report on these efforts and on the views expressed to him by governments, intergovernmental organisations and NGOs. The resolution further noted that the Inter-Agency Standing Committee (IASC), composed of the heads of the major international humanitarian and development organisations, had welcomed the *Guiding Principles* and encouraged its members to share them with their Executive Boards. The IASC's March 1998 decision had also encouraged its members to share the principles with their staff and to apply the principles in their activities on behalf of IDPs.

Reinforcing the IASC decision, UNHCR, UNICEF, WFP, ICRC and IOM made statements before the Commission emphasising the importance of the *Guiding Principles* to their work. UNICEF described the principles as "an excellent reference point which will serve as the international standard for the protection and assistance of IDPs." WFP observed that the principles would increase inter-

national awareness of the specific problems IDPs face as well as the legal norms relevant to addressing their needs. NGOs, in interventions to the Commission, urged effective action in the field on the basis of the principles' provisions. Although the Commission was not asked or expected to adopt the principles, it took an important step toward advancing protection for IDPs by acknowledging the principles and their expected use in the field.

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The need for principles

The *Guiding Principles* consolidate into one document all the international norms relevant to IDPs, otherwise dispersed in many different instruments. Although not a legally binding document, the principles reflect and are consistent with existing international human rights and humanitarian law. In re-stating existing norms, they also seek to address grey areas and gaps. An earlier study had found 17 areas of insufficient protection for IDPs and

eight areas of clear gaps in the law.¹ No norm, for example, could be found explicitly prohibiting the forcible return of internally displaced persons to places of danger. Nor was there a right to restitution of property lost as a consequence of displacement during armed conflict or to compensation for its loss. The law, moreover, was silent about internment of IDPs in camps. Special guarantees for women and children were needed.

The principles, developed by a team of international lawyers, do not create a new legal status for IDPs. Since IDPs are within their own country, they enjoy the same rights and freedoms as other persons in their country. They do, however, have special needs by virtue of their displacement which the principles seek to address.

They apply to both governments and insurgent forces since both frequently cause displacement and subject IDPs to abuse. They also deal with all phases of displacement. Most inter-governmental organisations and NGOs become involved only

after displacement takes place, or during the phase of return and reintegration. But the principles also address the prevention of unlawful displacement. In the introduction to the principles, IDPs are described as "persons or groups of 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 generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an

internationally recognised frontier.” This is the broadest definition of IDPs in use at the international or regional level.

The content of the principles

The first section of the principles deals with **protection against displacement** and explicitly states the grounds and conditions on which displacement is impermissible and the minimum procedural guarantees to be complied with, should displacement occur. The principles make clear, for example, that displacement is prohibited when it is based on policies of apartheid, ‘ethnic cleansing’, or other practices “aimed at or resulting in altering the ethnic, religious or racial composition of the affected population.” They also consider as arbitrary displacement “cases of large-scale development projects, which are not justified by compelling and overriding public interests.” It is also made clear that displacement should not be carried out in a manner that violates the rights to life, dignity, liberty, or the security of those affected. States, moreover, have a particular obligation to provide protection against displacement to indigenous peoples and other groups with a special dependency on, and attachment to, their lands [see article by Chatty on page 27].

The section relating to **protection during displacement** covers a broad range of rights. In most instances, general norms are affirmed, followed by the

specific rights needed by IDPs to give effect to these norms. For example, after the general norm prohibiting cruel and inhuman treatment is affirmed, it is specified that IDPs must not be forcibly returned or resettled to conditions where their life, safety, liberty and/or health would be at risk. Similarly, after the general norm on respect for family life, it is specified that families separated by displacement should be reunited as quickly as possible. And the general norm recognising a person before the law is given effect by specifying that IDPs shall be issued all documents necessary to enable them to enjoy their legal rights and that authorities must facilitate the replacement of documents lost in the course of displacement.

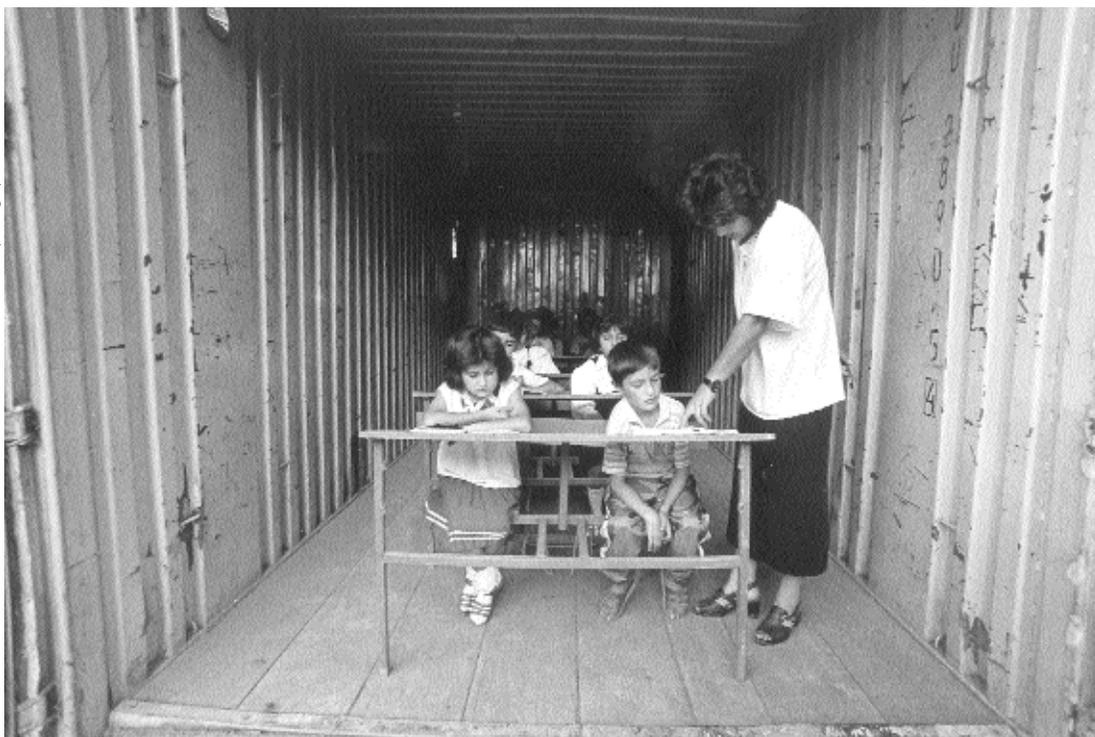
Special attention is paid to **the needs of women and children**, including a prohibition against gender-specific violence and provisions calling for the full participation of women in the planning and distribution of food and basic supplies. Access by women to female health providers and to reproductive health care is also affirmed, and the equal rights of women to obtain documents and to have such documentation issued in their own names is provided. The forcible recruitment of children into armed forces is prohibited and special efforts are called for to reunite children with their families.

Of particular importance are the principles relating to **the provision of humanitarian**

assistance, given the frequent efforts of governments and insurgent groups to obstruct relief and deliberately starve populations. The principles prohibit starvation as a method of combat. They affirm the right of IDPs to request humanitarian assistance, the right of international actors to offer such assistance and the duty of states to accept such offers. Indeed, consent on the part of governments and other authorities to receiving humanitarian assistance cannot be arbitrarily withheld. “Rapid and unimpeded access to the internally displaced” is insisted upon.

Another innovative provision concerns **the role of humanitarian organisations**. In providing assistance, these are asked to “give due regard to the protection needs and human rights of internally displaced persons,” and to “take appropriate measures in this regard.” Since many humanitarian and development organisations have provided assistance to IDPs without paying sufficient attention to their protection and human rights needs, the emphasis here on protection is a welcome change. Indeed, the futility of feeding people without attention to their protection needs has been demonstrated time and again, in Bosnia and in crises around the world. Acknowledging this, UN Secretary-General Kofi Annan has called for a more integrated approach in humanitarian emergencies so that protection and assistance are addressed comprehensively.

photograph: R. Jones/Panos Pictures



IDP children in their ‘classroom’: a converted goods container, Barda area, Azerbaijan

The final section of the principles relating to **resettlement and reintegration** makes clear that IDPs have a right to return to their homes or places of habitual residence voluntarily and in safety and dignity, or to resettle voluntarily in another part of the country. This is especially pertinent since IDPs are often forced to return to their homes whether or not the areas are safe and irrespective of their wishes to resettle in other parts of the country. Another necessary provi-

Training will also be needed. Although the principles are set forth clearly and are easy to comprehend, training in their specific provisions needs to be made a part of the UN disaster management training programme and comparable NGO programmes. UN peacekeepers and police forces also need to be trained in protection and human rights of IDPs. NGOs have suggested a popularised handbook based on the principles to assist in the training of field workers

Advocacy and intercessions, especially by the UN, with governments and insurgent groups will prove essential to increased protection. Even in cases where the combatants do not feel bound by accepted standards, the principles can serve notice that their conduct is open to scrutiny. In the case of governments interested in developing national law for IDPs, the principles should prove especially instructive. They should also help local authorities in dealing with problems of displacement.

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sion is the one providing for the recovery of property and possessions lost as a result of displacement and for compensation or reparation if recovery is not possible.

Application of the principles

The important next step is to give wide **dissemination** to the principles, so as to increase international awareness of the needs of IDPs and of the legal standards pertinent to their needs. While the 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 and that they bear responsibility not to create conditions causing displacement and to protect persons already displaced.

UN agencies have begun to publish and circulate the principles and to translate them into languages other than English.² The Under-Secretary-General for Humanitarian Affairs, who chairs the inter-agency process, has moved quickly to disseminate the principles and will publish 10,000 copies for use in the field. The Global IDP Survey (Norwegian Refugee Council) is also circulating the principles. But reaching millions of IDPs and the organisations assisting them will require a sustained, global effort in which regional organisations and international and local NGOs should become involved.

and local authorities; one is currently being prepared under the auspices of the Brookings Institution Project on Internal Displacement.

Monitoring application of the principles is critical to their effectiveness. Since there is no monitoring body to oversee the implementation of the principles, UN agencies, regional bodies and NGOs will have to perform this function.

The Inter-American Commission on Human Rights of the Organization of American States has already used the principles to evaluate the conditions of IDPs in Colombia. In addition, the Representative of the Secretary-General on IDPs used them in his discussions on a mission to Azerbaijan in May. But systematic monitoring will be needed to ensure that the principles are applied on a worldwide basis. The IDP database being developed by the UN in cooperation with the Norwegian Refugee Council/Global IDP Survey should prove an important means of monitoring their application. NGOs such as the Women's Commission on Refugee Women and Children could also perform a valuable service by monitoring the extent to which the principles are being implemented in the case of women and children. Local groups closest to IDPs need to be brought into the process, and affected populations themselves should be encouraged to monitor their own conditions in light of the principles.

But first, of course, the word has to get out. NRC's Global IDP Survey, the Brookings Institution Project on Internal Displacement and the US Committee for Refugees will all be highlighting the **Guiding Principles** in regional gatherings they are planning in order to focus attention on IDPs. UN agencies will likewise be promoting increased attention to the principles in the field. Indeed, everyone working with IDPs should become acquainted with the principles and how best to apply them to enhance protection for the displaced.

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¹ See *Compilation and Analysis of Legal Norms*, Report of the Representative of the Secretary-General on Internally Displaced Persons, E/CN.4/1996/52/Add.2, United Nations, December 1995. See also chapter on 'Legal Framework' by Walter Kaelin and Robert Kogod Goldman, in Roberta Cohen and Francis M Deng, *Masses in Flight: The Global Crisis of Internal Displacement*, Brookings, 1998.

² For a copy in English or French of the *Guiding Principles*, contact: Allegra Baiocchi, Office for the Coordination of Humanitarian Affairs, DC 1-1568, 1 UN Plaza, 10017 NY, New York, USA. Fax: +1 212 963 1040. Email: baiocchi@un.org. Also on www.notes.reliefweb.int. For a copy in Spanish, Russian, Arabic or Chinese, contact: Erin Mooney, UN Commissioner for Human Rights, Palais des Nations, Geneva 10, 1211 Switzerland. Email: emooney.hchr@unog.ch

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