



Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges

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Chapter 11

Employment, Economic Activities, and Livelihoods

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INTRODUCTION

This chapter looks at legislative, regulatory, and policy approaches to ensure that internally displaced persons (IDPs) have access to livelihoods. This includes non-discriminatory access to waged employment as well as the means to establish and maintain self-employment; access to, and recognition of, professional and technical qualifications; access to labor markets during and after displacement; and measures to facilitate the transition from dependency on external assistance to economic self-reliance. It is written with a view to suggesting approaches to national legislators, policy makers, and implementers looking to give effect to the *Guiding Principles on Internal Displacement* (the *Guiding Principles*).

IDPs' employment and income-generating situations vary tremendously from place to place, both before and during displacement. Before displacement, they range from waged employment in the civil service or formal private sector to subsistence agricultural activities. During displacement, they range from situations where displacement was development-induced and thus the subject of detailed planning,¹ to situations where a natural disaster has damaged or destroyed the infrastructure needed to support employment and livelihoods. Also, during displacement, employment and income-generating situations range from where the state has acted deliberately to erase the employment and livelihood opportunities of the displaced to situations where generalized violence or armed conflict has caused displacement and the housing of IDPs in temporary camps.

Like their fellow citizens, all IDPs need, and have a right, to work. This chapter surveys steps taken to give effect to this right and meet this need in

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¹ See Chapter 15 of this volume on development-induced displacement.

ways that are appropriate to the wide range of circumstances noted above. It looks at how these efforts are established in law and policy, and on this basis, given effect in practice, seeking thereby to identify potential best practices.²

LEGAL FRAMEWORK

A rights-based approach can be taken to explain what the *Guiding Principles* advocate that states do to help IDPs maintain and re-establish employment and livelihoods. Such an approach sees the integration of the norms, standards, and principles of the international human rights system—as reflected in the *Guiding Principles*—into legislation and policies as the justification for that action.

Relevant Guiding Principles

The right to employment during displacement is stipulated in Principle 22, which states that “internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the...right to seek freely opportunities for employment and to participate in economic activities.”

Several other Principles serve to improve IDP access to employment opportunities, economic activities, and livelihoods. They may also seek to prevent the loss of these opportunities as a consequence of displacement. Principle 1.1 states that IDPs should enjoy “in full equality, the same rights and freedoms under international and domestic law as do other persons in their country,” and that they should “not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.” This means that the entire range of state action aimed at promoting employment, economic activity and livelihoods—major direct or indirect targets of state policies everywhere—should be applied with equal force to IDPs. Non-discriminatory application of such policies would improve IDPs’

² The research presented in this chapter is based on a review of documents, including country profiles developed by the Internal Displacement Monitoring Center (IDMC), the mission reports of the Special Representatives of the Secretary General, and other documents referenced in the text.

situation; affirmative action benefiting IDPs could help them more. This is discussed in further detail later in this chapter.

Principle 4.2 stipulates that particularly vulnerable IDP groups “shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs,” while Principle 5 reinforces existing international obligations “under international law, including human rights and humanitarian law” meant to prevent and avoid conditions that might lead to displacement. Such conditions have historically been caused by violations in contravention of international labor standards, in particular those related to discrimination and the protection of indigenous peoples.³

Where feasible alternatives to displacement are not possible, Principle 7 provides that “all measures shall be taken to minimize displacement and its adverse effects.” This would include measures to minimize adverse effects on employment, economic activities, and livelihood. Principle 11.2(b) states that during displacement, IDPs, whether or not their liberty has been restricted, shall be protected in particular against “slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labor of children,” and that threats and incitement to commit such acts shall be prohibited. Principle 13.1 goes on to state that “in no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities,” while Principle 13.2 calls for IDPs to be “protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement.” Observance of these provisions is relevant as involvement in armed forces or groups could be considered a form of employment.

The *Guiding Principles* explicitly refer to employment in discussing protections during displacement. Evidence strongly suggests, however, that livelihood assistance to, and protection of, IDPs is critically important after

³ Discrimination (Employment and Occupation) Convention, 1958, ILO No. 111, 362 U.N.T.S. 31; Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989, ILO No. 169, 72 I.L.O. Off. Bull. 59, 29 I.L.M. 1382 (1989).

return or after the cause of displacement has subsided.⁴ Several Principles implicitly pertain to employment and livelihood supports during the period of return, resettlement, and reintegration.

Notably, Principle 28 calls on authorities “to facilitate the reintegration of returned or resettled internally displaced persons,” an obligation that encompasses assistance to enable the displaced to re-establish previous livelihoods (e.g., rehabilitating damaged agricultural land, business assets, fishing boats, etc.) or provide them with training and assistance for developing new sources of income.⁵ The ban on discrimination during reintegration in Principle 29.1 implies that all livelihood supports available to the citizenry at large—as great or as small as they might be—should also be granted to (former) IDPs.

Principle 29.2 calls upon the authorities to assist returned and/or resettled IDPs to recover property and possessions abandoned or disposed of upon displacement, fulfilling a critical need in reestablishing livelihoods. Finally, the obligation to allow humanitarian access to reintegrating IDPs under Principle 30 has important implications for facilitating livelihood support programs provided by external agents.

Relevant International Law and Standards

The right to work and to pursue economic activities, employment, and livelihood broadly understood is found in several international human rights instruments.⁶ The International Labour Organization (ILO) has adopted relevant instruments; however, none explicitly address IDPs.

⁴ John Borton, Margie Buchanan-Smith & Ralf Otto, *Support to Internally Displaced Persons, Learning from Evaluations: Synthesis Report of a Joint Evaluation Programme*, at 141 (2005).

⁵ Protection Of Internally Displaced Persons In Situations Of Natural Disaster—A Working Visit to Asia by the Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, February 27-March 5, 2005, 22, available at <http://www.ohchr.org/english/issues/idp/Tsunami.pdf>.

⁶ See United Nations Action in the Field of Human Rights, at 131 (1994).

Key protections in the Universal Declaration of Human Rights (UDHR) include the right to own property alone as well as in association with others (Article 17); the right to work, to free choice of employment, and to protection from unemployment (Article 23); and the right to an education (Article 26). The International Covenant on Civil and Political Rights (ICCPR) elaborates on the right to work, noting that it includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts. States parties to the ICCPR are obliged to take appropriate steps to safeguard this right, including by providing technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development, and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual. Article 7 of the ICCPR sets out the just and favorable conditions of work that should be ensured by states parties.

Similar obligations are set out in the International Labour Organization (ILO) Employment Policy Convention, 1964 (No. 122), which requires ratifying member states to adopt a national policy promoting freely chosen and productive employment. States are required to take protective measures against the forms of forced labor and exploitation identified in Guiding Principle 11.2(b) under several UN, ILO, and regional treaties and human rights instruments.⁷ Child recruitment is also banned under the Optional Protocol to the Convention on the Rights of the Child.⁸

The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (hereinafter the ILO Discrimination Convention) obliges ratifying states to eliminate discrimination on the basis of race, color, sex, religion, political opinion, national extraction, or social origin in relation to a broad definition of employment and occupations. The ILO Discrimination

⁷ The Forced Labor Convention, 1930, ILO No. 29, 39 U.N.T.S. 55; Abolition of Forced Labor Convention, 1957, ILO No. 105, 320 U.N.T.S. 291; Universal Declaration of Human Rights, art. 4; the International Covenant on Civil and Political Rights, art. 8; American Convention on Human Rights, art. 6; the European Convention for the Protection of Human Rights, art. 4; African Charter on Human and Peoples' Rights, art. 5.

⁸ Optional Protocol to the Convention on the Rights of the Child, arts. 1, 2.

Convention also obliges the state to promote equality in employment by private actors. Although race, national origin, and religion may be the cause for displacement, the status of displacement is not an explicitly prohibited basis named in the ILO Discrimination Convention. The ILO Discrimination Convention does, however, provide and promote the idea that states add to the prohibited bases enumerated in it;⁹ IDP status could well be a basis that might be appropriately added.

Under Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), states parties undertake to prohibit and eliminate racial discrimination in the enjoyment of certain economic, social, and cultural rights, including the right to work and free choice of employment. States are also required under the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) to take numerous specific steps to eliminate discrimination against women in the areas of education and employment.¹⁰ The UN Convention on the Rights of the Child (CRC), and ILO conventions on women, children, maternity, and disabled persons' protection and equality, in varying ways, call for law, policy, and action targeting the particular needs of these vulnerable groups.

The rights of indigenous peoples are the subject of special protection in international law. These rights were first set out in the ILO's Indigenous and Tribal Populations Convention, 1957 (No. 107) and were later expanded and revised in the Indigenous and Tribal Peoples Convention, 1989 (No. 169). Specific provisions are made in these instruments to guarantee rights in case of displacement or relocation.

OVERVIEW OF OBSTACLES TO THE IMPLEMENTATION OF THE GUIDING PRINCIPLES

Seven obstacles to implementing the *Guiding Principles* are summarized below. They can be used to guide remedial actions, policy, and legislation.

⁹ ILO Discrimination (Employment and Occupation) Convention, art. 1(1)(b).

¹⁰ Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), arts. 10, 11.

First, displacement threatens opportunities for employment, economic activities, and livelihoods by dislocating persons in relation to the capacities and means they have to engage in these activities at their place of habitual residence. In the case of waged employment, displacement removes a worker from his or her place of work and from the labor market in which he or she usually seeks jobs. Persons occupied on their own account are removed from the various productive resources used in pursuing their livelihood, including land, equipment, access to capital resources, and labor used to supplement their own. IDPs are removed from their customer and client bases, their usual social support and protection networks and mechanisms, and usual means of improving and recognizing skills, building and reinforcing product markets. In the context of development-induced displacement, the World Bank has identified an “impoverishment risk” that is clearly relevant to other causes of displacement.

Production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.¹¹

Second, IDPs face challenges in establishing the capacities and means needed to engage in employment, economic activities, and livelihoods during displacement. This is so whether they are living in or outside temporary housing facilities. It is also true after displacement, whether they have returned to their homes or settled in new homes. Cataloguing generally the dislocating effects of displacement on employment, economic activities, and livelihoods tends to underemphasize their dramatic consequences for the human beings involved. While law and policy can be put in place to address these consequences and to implement the *Guiding Principles*, the displaced humans suffer social and psychological consequences that these means cannot remedy.

¹¹ The World Bank Operational Manual, OP 4.12, ¶ 1.

Third, IDPs face discrimination in pursuing employment, economic activities, and livelihoods. Discrimination occurs because of the fact of their displacement or because of characteristics correlated with their displacement—for example, religion, ethnic or geographic origin, or race. Employers may decline to hire IDPs whom they expect will leave the job when it is possible to return home. Access to loans,¹² land, and other productive inputs may be specifically denied to IDPs. Access may also be limited in practice because preference is given to persons who are not IDPs. Access to internal work permits, where they are used, may be denied. IDPs may face discrimination from the non-IDP population who perceive them to be a privileged group, unjustifiably benefiting from special programs set up for their assistance.¹³

Fourth, institutional arrangements to assist IDPs in finding, developing, or taking employment opportunities, or accessing economic activities or livelihoods, may be inadequate or completely absent. Existing governmental and non-governmental organizations and institutions may have uncoordinated responses to IDPs' needs in this area. Institutional reach and capacity may be limited or unbalanced; services may be on offer, but not in geographic areas where they are needed. Opportunities to quickly shift resources may be similarly limited.

Fifth, many practical obstacles can be cited. The general fear of IDPs to declare themselves and restrictive registration processes may limit the availability of special services to them.¹⁴ IDPs may move to areas where employment opportunities are already scarce. Employment opportunities may

¹² Report of the Representative of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1995/57, Addendum, Profiles in displacement: Peru, ¶ 91, U.N. Doc. E/CN.4/1996/52/Add.1 (1996).

¹³ Deng Report 2000/53, Addendum, Profiles in Displacement: Georgia, ¶ 119, U.N. Doc. E/CN.4/2001/5/Add.4 (2001) [hereinafter Deng Report 2000/53: Georgia].

¹⁴ Press Release, *Internally Displaced in Nepal Overlooked and Neglected*, *UN Expert Says*, Apr. 22, 2005, available at http://www.brookings.edu/articles/2005/0422_nepal_kalin.aspx.

be of a character different from that with which they were occupied at home.¹⁵ The location of available housing or camps may be distant from existing employment opportunities.¹⁶ The taking of employment and pursuit of livelihoods may be hampered by the loss of documentary proof of employment qualifications, employment history, and productive property ownership.¹⁷ IDPs often find jobs in the informal economy where they are easily exploited.¹⁸

Sixth, exceptionally vulnerable groups face particular obstacles. Women IDPs face obstacles that are not faced by men. These include being denied access to land¹⁹ and credit.²⁰ Female IDPs may also suffer from exceptionally high gender-specific illiteracy rates.²¹ IDP children are another particularly vulnerable group. They may need to find work to supplement household

¹⁵ Deng Report 2002/56, Addendum, Profiles in Displacement: Turkey, ¶ 10, U.N. Doc. E/CN.4/2003/86/Add.2, (2002) [hereinafter Deng Report 2002/56: Turkey].

¹⁶ Deng Report 2001/54, Addendum, Report on the Mission to the Sudan, ¶ 19, U.N. Doc. E/CN.4/2002/95/Add.1 (2002) [hereinafter Deng Report 2001/54: Sudan].

¹⁷ Deng Report 2000/53: Georgia, *supra* note 13; Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World Specific Groups and Individuals: Mass Exoduses and Displaced Persons, Profiles in Displacement: East Timor, ¶ 51, U.N. Doc. E/CN.4/2000/83/Add.3 (Apr. 6, 2000); see also chapter nine on the recovery of personal documentation and chapter ten on property in this volume.

¹⁸ Deng Report 1995/57, Addendum, Profiles in Displacement: Peru, ¶ 91, U.N. Doc. E/CN.4/1996/52/Add.1 (1996) [hereinafter Deng Report 1999/57: Peru].

¹⁹ Deng Report 1996/52, Addendum, Profiles in Displacement: Mozambique, ¶ 74, U.N. Doc. E/CN.4/1997/43/Add.1 (1997).

²⁰ Human Rights Questions: Human Rights Situations and Reports of Special Rapporteurs and Representatives on Internally Displaced Persons, Note by the Secretary-General, Addendum, Profiles in Displacement: Tajikistan, ¶ 91, U.N. Doc. A/51/483/Add.1 (Oct. 24, 1996).

²¹ Deng Report 1995/57: Peru, *supra* note 18, ¶ 68.

income; they may be unable to attend school for lack of facilities or prerequisites, including language and documentation needed to register.²²

Finally, the causes of displacement have a dramatic influence on what states are willing and able to do in the way of policy, law, and regulation favoring IDPs' employment and economic activity. Where the causes are grounded in a states' intent to destroy employment and livelihood through displacement, as in the case of ethnic cleansing, civil war, or unrest, they pose an obstacle to implementing the *Guiding Principles*. On the other hand, much preparatory policy, law- and regulation-making can be done in advance of displacement caused by natural and man-made disasters.

REGULATORY FRAMEWORK

National constitutions and law should establish the fundamental framework for equality, the rights to work, to education, and to the essential elements—enabling rights related to such things as land tenure, right to and enforceability of contracts, protection of water, fishing and land use rights, and rights to water and other common resources—that give opportunity to peoples' livelihood. Problems in the form and content of legislation can work against effective law and policy. Speaking of legislation specifically targeting IDPs, commentators in Georgia in 1999 noted that:

Many legislative acts aiming [at] improvement of IDPs' situation have been issued. But all of them have a big defect: they are too abstract and unrealistic. The most frequently used words in these acts: “assist”, “maximally support”, “ensure”, “find sources”—may be acceptable at law level but when the same is repeated in those acts which should transform these words into concrete steps, we get into a blind-alley. There are no terms, no concrete measures, no

²² *Id.* ¶ 93.

accountable officials and not a single fact of holding someone accountable for misconduct.²³

A look at sample legislation and policy suggests that this comment could equally apply elsewhere. Omnibus IDP legislation including provisions dealing with employment and promotion of self-reliance has been adopted in several countries;²⁴ questions of implementation arise nevertheless.²⁵

Enactments that give IDPs preferential treatment can have adverse effects. This has been observed particularly where there is a combination of development-induced displacement, habitually difficult employment and livelihood circumstances, and donors concerned that the employment and livelihoods of those affected by development-induced displacement be replaced. In such circumstances, preferential employment and livelihood opportunities given to IDPs can be perceived to be large and unjustified by other citizens who face a similarly difficult day-to-day existence. The problem is worsened where the IDPs are of a particular religious or ethnic origin. This is a common situation considering that members of ethnic or racial groups tend to live—and are displaced—together. The possibility of this situation may call for special efforts to insulate the favored IDPs from retaliation.

SUBSTANTIVE AND PROCEDURAL ELEMENTS OF STATE REGULATION

States everywhere place employment and livelihood promotion along with economic development high on the policy agenda. Three preliminary points need to be made about this as it concerns IDPs as citizens displaced within

²³ Georgian Young Lawyers' Association, *Monitoring of Legal and Actual Status of Internally Displaced Persons in Georgia*, at 28 (1999).

²⁴ Georgia, Colombia, Tajikistan (giving assistance to find work or alternatively to be granted unemployment allowances during displacement; when resettling, work equivalent to their previous experience or training courses where required, pension or limited salary according to their period of absence). Profiles in Displacement: Tajikistan, *supra* note 20, ¶ 42.

²⁵ *Id.* ¶¶ 64, 90

their own country. First, many states have laws that are applicable without discrimination to national populations as a whole, including IDPs. Many national constitutions assure the right to seek employment and occupation freely;²⁶ most prohibit forced or compulsory labor; most prohibit discrimination in employment and occupation on numerous internationally recognized bases; most secure rights of tenure in land and other productive resources; and most provide for education. Second, IDPs, just as other citizens, benefit from the extremely broad range of related legal, policy, and program initiatives.²⁷ Third, IDPs benefit or suffer from the level of economic development within the country, the extent of employment and livelihood opportunities, and the level of law enforcement.²⁸ These three operational premises must be taken into account as background in assessing possible efforts taken specifically on behalf of IDPs.

The focus of this chapter is on laws and policies that on the one hand specifically name IDPs as a protected group and establish the basis for efforts to be made for their particular benefit,²⁹ and on the other hand, situations that unintentionally or intentionally disadvantage IDPs despite provisions in law and policy that should benefit them just as other citizens. Unintentional disadvantage flows from neutral provisions or practices that disproportionately disadvantage IDPs as compared with their compatriots. Intentional disadvantage occurs where IDPs are discriminated against because they are displaced or because they are members of groups commonly discriminated against, plainly contrary to the *Guiding Principles*.

²⁶ Right to free choice of employment, Armenian Constitution, article 29; Anti-Discrimination, Bosnia and Herzegovina, Labor Law of the Federation, article 5; cited along with other similar instances in Ludwig Boltzmann, *Implementing the Guiding Principles on Internal Displacement on the Domestic Level: An Analysis of Domestic Legislation and Policies and Recommendations on Areas For Further Research* (2005), at 33 [hereinafter BoSty].

²⁷ Deng Report 2002/56: Turkey, *supra* note 15, ¶ 16.

²⁸ *Id.*; see also Deng Report 2000/53: Georgia, *supra* note 13, ¶ 35.

²⁹ *Privileging IDPs: Georgia*, fn 89 of BoSty; *Azerbaijan*, fn 91 of BoSty; *Indonesia*, fn 93 of BoSty.

These protections and disadvantages ultimately affect the stock in the assets IDPs use to support their employment and economic activities.³⁰ The human assets of skills and abilities grounded in the basic physical and psychological health of the individual and his or her ability to function productively are affected. Social assets such as the ability of the local social network, including informal and formal social institutions, the existence of common normative values, trust and an orientation toward cooperation, to support, in this case, the ability of individuals to engage in economic activities and employment are affected. The natural resources available to individuals in pursuing employment and livelihood objectives, including food, water, and wildlife are affected. The physical assets of roads, energy, housing, buildings, land, transport and other infrastructure that can contribute to employment and economic activity are affected. The financial assets of access to credit, banking, social security funds, savings and remittances that make it possible for individuals to secure through financial exchange other necessary inputs are affected.

A final consideration is the fact that the different kinds of assistance given to the displaced to strengthen these stocks depends on the phase of displacement. These phase-based interventions operate against the backdrop of rights that should be set out in laws prior to displacement.³¹

Prior to Displacement

When displacement occurs, IDPs should benefit from all the elements of a functioning system of labor administration in place prior to displacement.

³⁰ The framework suggested here is a narrow application of the sustainable livelihood approach coined in Robert Chambers & Gordon Conway, *Sustainable Rural Livelihoods: Practical Concepts for the 21st Century*, Institute of Development Studies Discussion Paper, No. 296 (1991). These authors first used the term ‘sustainable livelihood’ and defined a livelihood as comprising people, their capabilities and their means of living, including food, income and assets. In its true form, the approach would look at all issues related to productive capacity, including fundamental health, shelter and food security issues.

³¹ Profiles in Displacement: Tajikistan, *supra* note 20, ¶ 60.

They also benefit from the wide range of law, policy, and activities that support economic self-sufficiency, employment, and enterprise development in most countries. These include access to education, training institutions, and certification of skills; access to employment services, credit institutions, banks, and land; and the existence of systems of social security and pensions.

An essential three-point foundation can be suggested. The first point is to have these systems, their underpinning laws and policies, and resulting activities in place prior to displacement. An essential element of this foundation is establishing the right to equal treatment in employment or occupation, either as an IDP or as a member of other protected groups that are potentially relevant in a context of displacement, for example, ethnic or racial minorities, or indigenous peoples. The second point of the foundation is to appropriately fix and record individuals' rights since displacement will remove access to them and related asset-strengthening institutions and programs at the home place. Such fixation of individual rights applies to the gamut of rights relevant to economic self-sufficiency, running from land titles to the right to follow particular educational and training programs or to practice a particular profession, to the right to receive pension benefits.³² This important second point reinforces the practical aspects of the first. It is critical that rights are recorded in a way that is impervious to displacement. The third point of the foundation is to assure the right of access to institutions that support employment and economic activities in places in the country other than that of citizens' residence.

All these foundational elements should be put in place legislatively prior to displacement. They are relevant in all types of displacement situations. They can be particularly important where displacement is caused by armed conflict or generalized violence where the ability to foresee displacement and protect the persons affected is limited. Similarly, where human rights persecution is the cause of displacement, governing regimes are unlikely to adopt special protections for IDPs as such, or for groups destined to become displaced. Non-discriminating pre-displacement systems for fixing acquired rights are critical.

³² Leopold Jose Bartolome et. al., *Displacement, Resettlement, Rehabilitation, Reparation, and Development*, Thematic Review I.3, 13 (2000) (prepared as an input to the World Commission on Dams).

The most evolved examples of legislation, policy, and operational initiatives specifically benefiting IDPs prior to displacement can be seen in connection with development-induced displacement. This includes, for example, the “non-action alternative.” Under this policy, there is a recognized option to avoid development projects that cause displacement even though there is potential for planning for displacement. This option is specifically called for in the *Organization of Economic Cooperation and Development (OECD) Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects* (the *OECD Guidelines*)³³ and could be placed in national economic planning policy and related legislation.

Where displacement does occur, a simple but useful distinction has been made between land-based and non-land-based resettlement programs. In advance of displacement, law and policy is put in place in land-based resettlement programs to provide resettlers with enough land to regain and build farms and small rural businesses. Non-land-based resettlement strategies include activities such as occupational training, employment, directed credit, and small business and enterprise development for job creation.³⁴

Resettlement programs that include elements of both types aim to bolster stock in the broader range of livelihood assets. For example, special training initiatives benefiting soon to be displaced persons can be taken in advance of displacement to boost the stock in human capital. Much emphasis has been placed on maintaining and boosting social capital in the context of development induced displacement. This includes consultation with prospective IDPs about methods to be used and initiatives to be taken to maintain livelihoods, efforts to ensure that community groups are relocated as a single entity, etc. Physical and financial assets are targeted by community planning, construction of infrastructure, and special programs of credits, loans, grants, and purchases to the benefit of IDPs.

³³ Organisation of Economic Co-operation and Development [OECD], *Guidelines on Aid and Environment No. 3, Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects*, at 6 (1992).

³⁴ Asian Development Bank, *Handbook on Resettlement: A Guide to Good Practice*, 62 (1998).

Steps need to be taken in both land-based and non land-based resettlement programs to meet a range of problems. These can include the fact that non-titled IDPs are legally ineligible for compensation; compensation for productive assets is not based on replacement costs; and that available land is of poor quality and inadequate. Other problems include the lack of skills needed for income-generating programs; an inadequate budget for income restoration programs; the lack of institutional and technical capacity to plan and implement micro-projects for income generation; and neglect of vulnerable groups in income restoration programs.³⁵

Pre-displacement steps specifically benefiting IDPs can also be taken where the displacement is caused by human-made disasters such as industrial or nuclear accidents. Although the 1993 Prevention of Major Industrial Accidents Convention calls for planning in the event of industrial accidents, actions to address the employment and livelihood results of displacement are not explicitly mentioned.³⁶ The instrument is nevertheless flexible enough for policy makers and advocates to use as a framework within which to design legislation and employment policy to benefit persons displaced by human-made disasters.

In the case of natural disaster, advance planning is possible and can yield substantial returns. The geographic zones that are susceptible to earthquake, typhoon, hurricane, flooding, fire, tsunami, and similar natural disasters tend to be known. Emergency plans can be made in advance, before populations are displaced. There are scores of examples of such emergency plans. Most emphasize restoration of infrastructure; few emphasize longer-term restoration of livelihood and economic self-sufficiency as such.

Finally, where displacement is induced by the desperate economic situation of a country, broad policy targets for economic development naturally imply

³⁵ *Id.*

³⁶ The Prevention of Major Industrial Accidents Convention, 1993 (No. 174). This instrument does not cover nuclear installations. It has been ratified by twelve countries as of May 30, 2008.

employment and self-reliance benefits for IDPs.³⁷ For example, in Colombia, it is reported that “income-generating activities in which internally displaced persons engage tend to be low-paying, temporary jobs with few or little social benefits such as construction work for men and domestic work for women.”³⁸ These types of jobs are common for many groups in many countries; law and policies designed to improve the situation for all who work in these jobs can have important benefits for IDPs as a group.

During Displacement

Discussion of IDP employment and livelihoods tends to focus on durable solutions after displacement. Action is also needed during displacement, especially as displacement can last for long periods of time.³⁹ Such action is well justified by the observed problems of IDP unemployment and inactivity. For example, without access to employment opportunities during displacement, IDPs can become particularly vulnerable to recruitment by both government and rebel forces.⁴⁰ Displaced children are particularly vulnerable to forced recruitment—as soldiers, domestic servants, or sex slaves.⁴¹ Where the cause of displacement is a natural disaster and IDPs are only temporarily displaced, the lack of income during displacement can lead to the loss of livelihood assets, which in turn undermines future employment and economic activities.

³⁷ Profiles in Displacement: East Timor, *supra* note 17, ¶ 56.

³⁸ Deng Report 1999/47, Addendum, Profiles in Displacement: Follow-up mission to Colombia, ¶ 94, U.N. Doc. E/CN.4/2000/83/Add.1 (2000).

³⁹ Deng Report 2002/56: Turkey, *supra* note 15, ¶ 15.

⁴⁰ Interview with UN official, Abidjan, Sept. 20, 2005, cited in Global IDP Project, *Internal Displacement in Côte d'Ivoire: a Protection Crisis*, at 13 (Nov. 7, 2005).

⁴¹ Global IDP Database, *Profile of Internal Displacement: Democratic Republic of the Congo, Compilation of the Information Available in the Global IDP Database of the Norwegian Refugee Council* (Aug. 8, 2002).

Relief assistance targeting economic activities and livelihood during displacement can be given whether persons are displaced among the general population or in camps. Although encampment is useful in an initial reception phase of displacement, long-term encampment can lead to hopelessness, inactivity, and dependency.⁴² Encampment is not good for economic self-reliance. It has thus been argued that encampment should be avoided in favor of integrative solutions, including local integration, self-settlement, or other forms of assistance that allow IDPs access to gainful employment, land, and social services.⁴³ This type of approach gives IDPs' economic self-reliance and livelihood a high priority in driving arrangements for IDP relief. Yet, care needs to be taken—initially, in equality-strengthening laws—to avoid exploitation where such approaches are taken.⁴⁴

Where encampment is inevitable, launching initiatives that tap the realities of the camp economy is the usual strategy for establishing employment and livelihood opportunities. The challenge is building upon, or injecting necessary elements, to develop or strengthen the marketplace. For example, women in Darfur, Sudan and Huamba Province, Angola add the value of their labor to firewood by collecting and distributing it.⁴⁵ Access to the firewood is

⁴² Stephen Castles & Nicholas Van Hear, *Developing DFID's Policy Approach to Refugees and Internally Displaced Persons*, I REFUGEES STUDY CENTER 2005, citing Richard Black, *Putting Refugees in Camps*, 2 FORCED MIGRATION REVIEW 1-4 (1998); LYNELLYN LONG, BAN VINAI (1993); Liisa Malkki, *Refugees and Exile: From "Refugee Studies" to the National Order of Things*, 24 ANNUAL REV. OF ANTHROPOLOGY 495-523 (1995).

⁴³ Castles and Van Hear, *supra* note 42.

⁴⁴ Internal Displacement Monitoring Center, Democratic Republic of Congo: Some 40,000 Flee Ongoing Fighting every Month—A Profile of the Internal Displacement Situation, at 105 (Mar. 1, 2006).

⁴⁵ Internal Displacement Monitoring Centre [IDMC] Sudan, *Global Overview of Trends and Developments in 2005*, at 47 (Mar. 2006); Global IDP Database Angola, *Profile of Internal Displacement: Angola*, Compilation of the Information Available in the Global IDP Database of the Norwegian Refugee Council, at 68 (Aug. 9, 2002) [hereinafter Global IDP Database: Angola].

a necessary prerequisite as well as a means to exchange value in the form of barter—of food rations or other services—or cash money. Steps can be taken to promote such initiatives. In Meira Camp, Pakistan, Save the Children paid women to make blankets and children’s clothing sets, and hired watchmen and cleaners to work at the camp.⁴⁶ Personal grooming services, clothes-making and repair, food preparation, small-scale construction, and similar activities, are all services in demand within camps,⁴⁷ and programs can be devised to provide training in these sorts of activities.⁴⁸ Legislation and policy should at least not hinder such activities, and at best actively encourage them.

A typical response to IDP unemployment is employment-generating infrastructure development, rehabilitation, or maintenance programs. These programs can improve physical assets that, in turn, improve livelihood opportunities after displacement. Substantial employment was created for IDPs in reconstructing infrastructure in India, Sri Lanka, Indonesia, and Thailand after the 2004 tsunami. Such programs can boost human assets (through skills training), social assets (through consultation and community-focus implementation modalities), and physical assets depending on the arrangements made for their implementation.⁴⁹ Considering natural assets, an example can be seen in the Georgian Law on Internally Displaced Persons,

⁴⁶ Save the Children, Response Situation Report #25 (Mar. 7, 2006), *available at* <http://www.reliefweb.int/rw/rwb.nsf/db900SID/KHII-6MM5TS?OpenDocument>.

⁴⁷ Informal trading also takes place inside the IDP camps and transit centers. Cigarettes, soap, matches, cooking oil, and firewood are sold there in small quantities. Women dominate as sellers of low-priced goods. High-priced merchandise is generally sold by men, but few displaced men have the financial resources to enter that sector of the market. Global IDP Database: Angola, *supra* note 45.

⁴⁸ Norwegian Refugee Council, *Camp Management Toolkit*, §20 (2004).

⁴⁹ ILO Tsunami Work—Background Information, ILO Regional Office for Asia and the Pacific, *available at* http://www.ilo.org/public/english/region/asro/bangkok/download/yr2005/tsunami_background.pdf.

which obliged local authorities to provide IDPs with plots of land for temporary use.⁵⁰

In the Context of Durable Solutions

Although the ideal situation for IDPs is returning to their habitual place of residence, this is often an unattainable solution. This is clearly the case in development-induced displacement, where resettlement, the next best option, is the process of starting a new life in any place other than the place of original residence. The process of reintegration means the re-entry of IDPs into the social, economic, cultural, and political fabric of their original (where return has been possible) or new communities. A durable re-entry has occurred when the former IDP becomes a part of the community and is not distinguished from that community for any reason related to the person's former status as a displaced person.⁵¹ Reintegration ultimately means that any livelihood supports given only to IDPs will have fallen away.

A wide range of livelihood supporting policies and programs can be justified before this ideal situation can be achieved.⁵² But two general observations are worth making first, concerning the relationship between return and livelihood opportunities relative to law and policy-making. First, IDPs hesitate to return if there are no, or limited, livelihood opportunities compared to livelihood

⁵⁰ Although government has confirmed that plots have been given, there are some reports from IDPs that they had to pay “extra expenses” in order to actually benefit from the scheme. Without payment for extra expenses no land, bad land, or badly situated land might be given. Deng Report 2000/53: Georgia, *supra* note 13, ¶ 37.

⁵¹ Internal Displacement Monitoring Center [IDMC], *Training Materials on Durable Solutions* (2004).

⁵² An example of an ambitious relocation and reintegration scheme has been sketched out for pastoralists in Afghanistan, involving consultation, skills training, asset transfers, access to micro-financing, approaches to developing acceptance by local populations, etc. IDMC Afghanistan, *Commitment to Development Key to Return of Remaining Displaced People—A Profile of Internal Displacement Situation*, at 135 (Dec. 2, 2005).

chances in the residence where they are temporarily dislocated.⁵³ This can be associated with the availability or access to returned lands and other productive inputs, the scarcity of waged jobs, the availability of mechanisms for kick-starting livelihoods at the home place after return, or concerns for physical security. Return in certain cases may be seen as being both dependent on, and part of, the general economic development of the region concerned.⁵⁴

This livelihood-based hesitancy to return can hinder economic self-sufficiency efforts made in law and policy. The problem is most acute where return seems to be imminent. IDPs thus wait before setting down the roots of economic self-sufficiency, and policy-makers hesitate to give effect to supportive policy and programs, waiting or moving instead to design responses for reintegration at the place of original residence.⁵⁵

Law and policy can confront the hesitancy. To counter the phenomenon in Georgia, for example, the “New Approach” program was designed to reaffirm “the right of all displaced persons to return to their home in conditions of safety and dignity, while recognizing the need, in the absence of those conditions, to enable internally displaced persons to realize their full rights as citizens and to resume productive lives.”⁵⁶ After a long period of displacement in this case, efforts were shifted from humanitarian assistance to enabling the internally displaced to become self-reliant and socially and economically integrated. Failure to make this shift left the internally displaced “in a precarious position, in effect locking them out of the benefits that could accrue to them from participation in longer-term development activities.”⁵⁷

⁵³ Case of Croatian Serbs, noted by the Internal Displacement Monitoring Center, IDP’s in Croatia.

⁵⁴ Deng Report 2000/53: Georgia, *supra* note 13, ¶ 103.

⁵⁵ Deng Report 1998/50, Addendum, Profiles in Displacement: Azerbaijan, ¶ 95, U.N. Doc. E/CN.4/1999/79/Add.1 (1999) [hereinafter Deng Report 1998/50: Azerbaijan].

⁵⁶ Deng Report 2000/53: Georgia, *supra* note 13, ¶¶ 112, 108-128.

⁵⁷ *Id.* ¶ 111, citing Report of the Secretary-General concerning the situation in Abkhazia, Georgia, ¶ 24, S/2000/345, Apr. 24, 2000.

The second observation is that IDPs' resistance to economic inactivity can be seen in cases where displacement was short-termed, livelihood stocks were relatively strong prior to displacement, and return, although tentative, is possible.⁵⁸ In this last case, despite catastrophic affects of displacement on livelihoods, nominally returned IDPs can, under still unstable circumstances, undertake coping strategies in the direction of economic self-reliance. In these circumstances, re-establishing livelihood opportunities should be viewed as a process rather than an all or nothing proposition and securing a durable return is probably the best authorities can do to reestablish livelihoods.

Human Assets

Vocational training programs provide skills, which are transportable assets. Examples can be given of training in languages, computer skills, and trades such as carpentry.⁵⁹ Skills training centers for demobilized combatants in Angola provided basic training in brick-making, agriculture, electric wiring, and carpentry.⁶⁰ IDPs can benefit from training in their new environments, be it an urban labor market or a labor market undergoing transition to a market economy,⁶¹ or in skills they need to fill available jobs.⁶²

Institutional mechanisms can be put in place to help put IDPs in contact with employers at the end of a program of training.⁶³ Skills can be recognized

⁵⁸ Internal Displacement Monitoring Center [IDMC], Democratic Republic of Congo, *supra* note 44, at 108.

⁵⁹ Program run by the International Rescue Committee (IRC) in Zugdidi, Georgia. Deng Report 2000/53: Georgia, *supra* note 13, ¶ 45.

⁶⁰ Global IDP Database: Angola, *supra* note 45, at 90.

⁶¹ Deng Report 2000/53: Georgia, *supra* note 13, ¶ 45.

⁶² Deng Report 1998/50: Azerbaijan, *supra* note 55, ¶ 93.

⁶³ Deng Report 2001/54: Sudan, *supra* note 16.

through certifications given as part of the program. The state itself, private actors, and international actors can operate certification programs. In each case, policies and laws need to make it possible for such institutions to operate. Documentation of previously acquired qualifications has to be made easy, or provision made for persons who simply lack documentation.⁶⁴ This can include skills-testing, or methods of recertification based on testimonial evidence.

Human assets can also be boosted through policies and programs specifically aimed to entice refugees home. These can bring employment benefits to IDPs. Return of Qualified Nationals programs in Afghanistan,⁶⁵ East Timor,⁶⁶ and Bosnia⁶⁷ were undertaken specifically with a view to rejuvenating the local economy and strengthening local capacity.

Social Assets

Stock in social assets may be the most difficult to rebuild. The social liabilities of ostracism and discrimination hamper IDPs' economic activity by affecting other livelihood assets. Challenges are lessened where social networks are transplanted with entire communities. This sometimes happens in cases of development-induced displacement. But this is not the usual case, and efforts are needed on the one hand to breakdown behavior that keeps IDPs out of social networks, and on the other hand to build and rebuild social networks that contribute to economic activity and self-sufficiency. These would include anti-discrimination laws and laws or policies that respect the social networking practices of communities of IDPs, such as those respecting customs and

⁶⁴ Deng Report 1995/57: Peru, *supra* note 18, ¶ 98.

⁶⁵ International Organization for Migration, EU-RQA Programme Micro and Small Scale Business Support Grants, *available at* <http://www.iom-rqa.org/self-employment%20schemes%20explanatory%20note%20revised.htm>.

⁶⁶ Profiles in Displacement: East Timor, *supra* note 17, ¶ 57.

⁶⁷ International Organization for Migration Home Page, <http://www.iom.ba/Programs/Completed/rqn.htm>.

practices of indigenous peoples. Probably equally significant are the softer interventions that can be undertaken by national policy promotion institutions such as those charged with promoting human rights, spiritual wellness (i.e., organized faith-based organizations), education (i.e., universities and other educational institutions), and similar civil society institutions.

IDPs can face employment and livelihood difficulties if they return prematurely to their homes. This can be related to issues of social integration as well as security. Local workers and employers need to be prepared for an influx of returning IDPs into the local labor market and measures to recover occupied lands need to be taken prior to any actual return of IDPs.⁶⁸

A comprehensive assessment of the conditions and difficulties of IDPs may be needed to ensure that projects are developed that target their needs. Laws and policies need to authorize or mandate this. This type of assessment might be one of the best ways for determining how social assets can be strengthened, and social networks and trust recreated and supported. Implementation of the New Approach program in Georgia included a series of studies to assess and address the issues of employment and income generation, and the law as it related to IDPs and issues of community development.⁶⁹

Physical Assets

A livelihood assessment of the physical assets needed by IDP groups is a good strategy considering the possibly broad range of these assets. In Georgia, for example, the Office of the United Nations High Commissioner for Refugees (UNHCR) observed that more sustainable return occurred after it began providing returnees with agricultural inputs.⁷⁰ In other situations, livestock

⁶⁸ Global Internal Displacement Database, *Profile of Internal Displacement: Cote D'Ivoire*, *supra* note 41, at 7.

⁶⁹ Deng Report 2000/53: Georgia, *supra* note 13, ¶¶ 102, 118.

⁷⁰ *Id.*

could be the necessary physical asset,⁷¹ and if so, the quantity of livestock should be sufficient to generate surplus income.⁷² Law and policy need to make these types of support possible, including mechanisms for transferring ownership or title to IDPs.

Basic infrastructure security will also be a priority in many cases. This includes, for example, the removal of mines, the availability of roads to bring goods to market, and the functioning of basic machinery for productive activities such as the processing of raw agricultural products.⁷³ Creating or restoring these assets can provide short-term employment for IDPs.

Finally, productive land ownership can also be a critical factor enabling IDPs to lift themselves out of poverty. The *Guiding Principles* ask for observance of the principle on non-discrimination in this regard.

Financial Assets

Special financing arrangements for IDPs can be very important for self-sufficiency, particularly if it is on a micro-scale. In the Democratic Republic of Congo, for example, micro-financing of livelihood projects for ex-combatants was conditioned on the decommissioning of arms, although donor financing was withdrawn when the broader disarmament agreement collapsed.⁷⁴

⁷¹ World Bank, Georgia—Poverty and Income Distribution, vol. I, ¶ 14, Report No. 19348-GE (1999).

⁷² Deng Report 2000/53: Georgia, *supra* note 13, ¶ 40.

⁷³ Deng Report 2000/53, Addendum, Profiles in Displacement: Armenia, ¶ 26, U.N. Doc. E/CN.4/2001/5/Add.3 (2000) [hereinafter Deng Report 2000/53: Armenia].

⁷⁴ Internal Displacement Monitoring Centre [IDMC], Profile of Internal Displacement: Republic of Congo (Brazzaville) Compilation of the Information Available in the Global IDP Database of the Norwegian Refugee Council, 65 (Apr. 8, 2005).

Taxation on newly reoccupied but as yet unproductive property may have undesired effects on IDPs who have just returned.⁷⁵ It is advisable to adopt tax law to accommodate this situation.

Institutional mechanisms to increase or improve the stock of financial asset supports can vary. In Eritrea, a central informal group met to brainstorm on issues relating to micro-finance/credit for IDPs.⁷⁶ Where international donors fund micro-finance schemes, their failure to meet appeals or fulfill pledges undermines recovery efforts.⁷⁷ Private agencies can also be contracted to implement micro-financing schemes.⁷⁸

Subsidies can boost stock in financial assets. Subsidized public transportation for the displaced may be a practical way to facilitate their engagement in income-generating activities.⁷⁹ To support income-generating activities for women, support can be given to child-care facilities.⁸⁰ Special unemployment benefits can also be put in place for persons affected by a natural disaster

⁷⁵ Deng Report 2000/53: Armenia, *supra* note 73.

⁷⁶ Global IDP Project, Profile of Internal Displacement: Eritrea Compilation of the Information Available in the Global IDP Database of the Norwegian Refugee Council 107 (June 17, 2005).

⁷⁷ *Id.* at 137.

⁷⁸ Internal Displacement Monitoring Centre [IDMC], Afghanistan: Commitment to Development Key to Return of Remaining Displaced People—A Profile of the Internal Displacement Situation, at 103 (Dec. 2, 2005).

⁷⁹ Deng Report 1999/47, Addendum, Profiles in Displacement: Follow-up Mission to Colombia, ¶ 96, U.N. Doc. E/CN.4/2000/83/Add.1 (2000) [hereinafter Deng Report 1999/47: Columbia].

⁸⁰ One example of a state-run program in this regard is the “Madres Comunitares” in the Nelson Mandela barrio which involves paying a number of internally displaced women to provide day care for children whose mothers work. RRSIDP, submitted in accordance with Commission resolution 1999/47. Deng Report 1999/47: Columbia, *supra* note 79, ¶ 96.

where, for example, employment or self-employment is no longer possible because of destruction of the place of employment.⁸¹

Job Creation

The typical economic activity plan for IDPs involves job creation. Such plans employ IDPs in the reconstruction of homes, public infrastructure, public buildings, irrigation works, well-making and repair, mine clearing, and so on. Different programmatic approaches can be taken to job creation initiatives, each with related legal and policy implications. IDPs can be employed directly by government. Private contractors who are in turn employed by government to undertake construction projects can also employ them. Provisions should ideally be made in national law and regulations in the first case for such extraordinary employment programs, setting, among other things, detailed requirements for employment terms and conditions. In the case of private contractors, national law and regulations should ideally require labor clauses in public contracts or otherwise assure that the employment and income-generating objectives of government are achieved via the private sector. Prior to displacement, policies promoting labor-based technologies in public contracting can help mainstream this approach, which in turn can be used to benefit IDPs if displacement occurs.⁸² IDPs can also be given grants specifically for the purchase of materials needed to reconstruct housing or productive premises themselves, or to contract construction work. Building materials can also be made available directly. Here, too, appropriate laws and regulations should be in place to facilitate such extraordinary transfers.

⁸¹ United States' Disaster Unemployment Assistance does not grant benefits where the worker is displaced per se; in recent cases, however, destruction of the place of work could well be coincident with destruction of the worker's home, *available at* <http://workforcesecurity.doleta.gov/unemploy/disaster.asp>.

⁸² David Stiedl & David Tajzman, *Labor Clauses in the Public Contracts in Ghana: Recent Experience in the Roads Sector*, Ghana Country Procurement Assessment Report, Annex 9, Vol. 5, June 2003, *available at* http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2004/05/21/000160016_20040521151743/Original/290551GH1CPAR0Annex0901v5.doc.

Incentives can be given to businesses to hire IDPs.⁸³ Businesses themselves may be owned by IDPs who in turn may make special efforts to employ IDPs.⁸⁴ IDPs in Azerbaijan established themselves as private construction contractors to respond to demand set in motion by public contracts and international assistance, providing employment and creating skills for other IDPs.⁸⁵ This cascading effect makes it good policy to promote IDPs as enterprise owners and employers.⁸⁶ NGOs also often operate business development programs specifically targeting women, with an objective of keeping women IDPs out of prostitution.⁸⁷

Policies of affirmative action have been used to favor IDPs. To be effective, however, such policies need also to take labor market demands into account; and positive action obligations need to apply to economic sectors that are actually creating jobs.⁸⁸

INSTITUTIONAL ELEMENTS OF STATE REGULATION

Responsibility for assisting IDPs lies first with national authorities. Issues of public administration may be more important than effectiveness when it comes to assigning responsibility specifically for IDP employment and livelihood opportunities. Where displacement is caused by a natural disaster, for example, authorities responsible for disaster relief and emergencies will respond, probably with little immediate thought to employment and livelihood issues as such. In the view of such authorities, the immediate effects of the disaster, life and property, need to be protected. Only after chaos is averted or

⁸³ Deng Report 1999/47: Columbia, *supra* note 79, ¶ 95.

⁸⁴ Deng Report 2000/53: Georgia, *supra* note 13, ¶ 46.

⁸⁵ Deng Report 1998/50: Azerbaijan, *supra* note 55, ¶¶ 69-70.

⁸⁶ Deng Report 2000/53: Georgia, *supra* note 13, ¶ 47.

⁸⁷ *Id.* ¶ 48.

⁸⁸ Georgian Young Lawyers' Association, *Monitoring of Legal and Actual Status of Internally Displaced Persons in Georgia*, a paper supported by UNHCR, at 19 (1999).

abated will thought turn to restoring livelihoods. Depending on the scale of displacement, authorities other than those usually dealing with employment and economic activities may be involved, taking up the task of establishing emergency employment opportunities. Only in the context of finding durable solutions will the authorities usually responsible for employment matters, and institutions under their control, take up their responsibilities. Similarly, authorities responsible for a development initiative that induces displacement may have lead responsibilities for it, with little hand-off to, and liaison or coordination with, line authorities responsible for human rights, community planning, or labor and employment matters. Where war and civil unrest are the cause, the military and police may be the leaders, again with limited inter-authority coordination.

It has been noted that “in the absence of policy and legal instruments and an effective mechanism to monitor compliance, even well-structured institutions with trained staff have failed in consistent implementation of effective resettlement.”⁸⁹ This suggests that special policies and legal instruments should be considered. Special institutional frameworks to broadly oversee reintegration and specifically to oversee efforts aimed at employment and economic self-sufficiency may also be considered. Responsibility for promoting IDPs’ employment and livelihoods opportunities cannot be vested in military or police authorities where displacement is caused by armed conflict, generalized violence, or persecution. International agencies, NGOs, and other governmental authorities are better placed in such circumstances, and particularly so during displacement. International financial institutions are often involved in development-induced displacement. Their policies should be used to develop national institutions appropriate to the situation.

Where displacement is permanent, a number of different types of institutions will be involved in helping IDPs reintegrate within labor markets and find employment opportunities in new places of residence. NGOs can play an important role in helping facilitate implementation of Guiding Principle 28.2 to ensure full participation of IDPs in the planning and management of their reintegration, in seeking the views of IDP communities, monitoring projects,

⁸⁹ Leopold Jose Bartolome et al., *supra* note 32, at 6 (2000).

and explaining efforts, rights, and so on.⁹⁰ Educational and labor market institutions should play their normal roles and ideally be sensitized to the needs of the former IDPs in the community.

There is at least one example of the judicial branch of government playing an important role in promoting a response to IDPs' needs. It has been reported that:

the Colombian Constitutional Court issued a ruling in 2004, declaring the lack of adequate protection and assistance to IDPs unconstitutional and urging the government to design a strategy guaranteeing an effective response to the maximum of available resources. The Colombian government has seemingly taken the ruling seriously by establishing and reinforcing institutions meant to respond to the IDPs' needs for health care, education, livelihood and property. It also allocated more than \$2 billion at the end of 2005 for long-term IDP programs in response to the Constitutional Court's ruling.⁹¹

ROLE OF INTERNATIONAL ACTORS

State structures weakened by years of war and destruction rarely have the capacity to ensure a successful return and reintegration of IDPs in post-conflict situations. External help is needed.⁹² The effects of natural and man-made disasters similarly strain state structures. International actors can, and do, play an important role in financing and orienting policy and programs that generate employment in these circumstances. This can be done both during

⁹⁰ Deng Report 2000/53: Georgia, *supra* note 13, ¶¶ 126-127.

⁹¹ Internal Displacement Monitoring Centre, *Internal Displacement: Global Overview of Trends and Developments in 2005*, 2006 INTERNAL DISPLACEMENT MONITORING CTR. 60 [IDMC Global Overview].

⁹² *Id.* at 47.

displacement and as part of durable solutions after the causes of displacement abate.

Governments are known to deny the existence of IDPs in certain circumstances. Where this is the case, they are unlikely to seek international help in improving IDP employment or livelihood situations. Since employment and livelihood promotion is a general policy concern, international players may be able to provide IDP-friendly assistance without specifically targeting the group.⁹³ International actors need also to be concerned about the legality of their activities under national laws.⁹⁴ States interested in maintaining the rule of their own laws as well as making use of international resources will want to consider the user-friendliness of relevant law and regulation in the context of situations that cause internal displacement and the involvement of international actors in helping in the aftermath.

Examples of international actors' support for projects that create employment include: public works and training, employment as social workers to counsel IDPs,⁹⁵ and employing doctors who are IDPs.⁹⁶ In Azerbaijan, various types of support to micro-enterprise development by international agencies and NGOs were reported including "vocational and business training; small business grants or loans to individuals for the purchase of needed equipment...loans to groups of internally displaced persons organizing small business cooperatives...and the establishment and support of women's cooperatives."⁹⁷ In Georgia, efforts to rally financial resources from the donor community benefited from a reorientation of IDP policy.⁹⁸

⁹³ Deng Report 2002/56: Turkey, *supra* note 15.

⁹⁴ This can mean compliance with many different types of national laws and regulations dealing with matters as different as rules for importation productive machinery used for vocational training to labor regulations applicable to persons employed in development projects.

⁹⁵ Deng Report 1998/50: Azerbaijan, *supra* note 55, ¶ 78.

⁹⁶ *Id.* ¶ 80.

⁹⁷ *Id.* ¶ 95.

International Labour Organization

The ILO is the UN specialized agency mandated with promoting employment and favorable conditions for work. It has been involved for fifty years in providing assistance associated with employment promotion as well as national labor administration supporting livelihood opportunities. It works closely with the World Bank in implementing the types of employment-creating infrastructure projects associated with IDPs. In recent years, the ILO has developed policy recommendations and approaches and programs within its mandate for helping countries in crisis, including dealing with displaced persons.⁹⁹

World Bank

International financial institutions have policies that mandate their activities and involvement in development-induced displacement. These can be used as a basis for requesting assistance. In 1980, the World Bank formulated the first policy on development-induced resettlement of any development agency engaged in funding or constructing projects that caused displacement.¹⁰⁰ The Bank's policy explained the basic criteria which every Bank financed project needed to meet, defined its fundamental objective as restoring the income and livelihood of affected people, and improving living standards further whenever possible. The Asian Development Bank¹⁰¹ and the Inter-American

⁹⁸ For example, the New Approach policy in Georgia. See Deng Report 2000/53: Georgia, *supra* note 13, ¶¶ 116-117.

⁹⁹ International Labour Organization, *Crisis Response Publications*, http://www.ilo.org/public/english/employment/crisis/info/g_publ.htm.

¹⁰⁰ Michael Cernea, *The Urban Environment and Population Relocation*, World Bank Discussion Paper No. 152 (1993).

¹⁰¹ See Involuntary Resettlement Policy, Aug. 1995, available at http://www.adb.org/Documents/Policies/Involuntary_Resettlement/default.asp?p=rsttlmnt; see also Resettlement: A Guide to Good Practice, 1998, available at

Development Bank¹⁰² followed suit, making policy in 1995 and 1998, respectively. The World Bank also has a policy on indigenous peoples that is relevant to situations of displacement.¹⁰³

In the context of its operations, the World Bank can offer important experience for orienting and implementing policies that support IDP self-reliance in the case of resettlement in development-induced displacement. Its experience may also be useful in situations of man-made and natural disasters leading to displacement, and in post-conflict situations. Community empowerment programs typically include employment generation facilities, and micro-credit and micro-enterprise development programs are common to the Bank's portfolio of activities that can benefit IDPs.¹⁰⁴

OECD

In December 1991, the OECD Ministers of Environment and Development Cooperation endorsed *Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development*.¹⁰⁵ The *OECD Guidelines* call for integration of the possibility of involuntary displacement into development planning, and with respect to access to training and employment, the planning should take into account the idea that general economic growth cannot be relied upon to protect the welfare of the project-affected population. Assistance might be sought from the OECD within this context.

<http://www.adb.org/Documents/Handbooks/Resettlement/default.asp> and Summary of the Handbook.

¹⁰² See Operational Policy on Involuntary Resettlement (10/98, IND-103, E, S), Oct. 1998, available at http://www.iadb.org/sds/ind/publication/publication_138_102_e.htm; Involuntary Resettlement in IDB Projects. Principles and Guidelines, Nov. 1999, available at http://www.iadb.org/sds/ind/publication/publication_138_105_e.htm.

¹⁰³ Operational Policy (OP) 4.10, July 2005.

¹⁰⁴ Profiles in Displacement: East Timor, *supra* note 17, ¶ 57.

¹⁰⁵ OECD Guidelines, *supra* note 33.

UN Agencies

There is no single organization within the UN responsible for IDPs. With respect to economic self-reliance, the role of UN agencies is seen mostly in the context of transition to development.¹⁰⁶ Food-for-work programs operated by the UN World Food Programme provide a means both for meeting food needs until a return to former livelihoods is possible, and re-engaging displaced persons in productive employment.¹⁰⁷

SUMMARY OF RECOMMENDATIONS

1. Laws should establish and fix the rights of persons to the assets they need to engage in employment and economic activities through the following:
 - a. with respect to human assets, securing the equal right to education and arranging for educational and skill certification that is transportable and can be restored;
 - b. with respect to social assets, securing such things as the right to employment and occupation without discrimination and to associate;
 - c. with respect to natural assets, securing such things as the right to land, water, fish and timber;
 - d. with respect to physical assets, securing such things as the right to productive goods and chattel; and
 - e. with respect to financial assets, securing such things as the right to borrow money, receive grants and benefits, and to contract.

2. Sustained and deliberate efforts should be made to implement relevant international standards, including the *Guiding Principles*, in the area of equality, the rights of indigenous peoples, employment policy, labor administration, social security, and vocational training.

¹⁰⁶ Inter-Agency Standing Committee, *Implementing the Collaborative Response to Situations of Internal Displacement, Guidance for United Nations Humanitarian and/or Resident Coordinators and Country Teams*, at 35 (June 2005).

¹⁰⁷ *Id.* Annex 2, Activities List, WFP—World Food Programme. See also Deng Report 2000/53: Georgia, *supra* note 13, ¶ 45.

3. Labor administration and employment policies, laws, and programs that are in place and operational before displacement ought to be appropriate to needs in the local context.
4. A policy for emergency labor administration services should be designated in advance of displacement circumstances.
5. An emergency public employment service should be seen as essential, and arrangements should be made to establish contingencies for it.¹⁰⁸
6. Laws and policies that enable the quick implementation of appropriate emergency employment programs should be put in place that take into account a range of issues, including sources of funding, methods of identifying infrastructure susceptible to natural disasters, policies for identifying beneficiaries, policies supporting labor intensive construction and maintenance methods.
7. Policy should be made to guide labor market institutions in their handling of IDPs and where appropriate, special institutional arrangements should be considered with a view to specifically benefiting IDPs. Action should be taken to implement the right of IDPs to treatment in all ways equal to their fellow citizens in connection with employment and occupation.
8. The safeguards that guide the lending of international financial institutions should, at a minimum, inspire national legislative and policy activity with respect to development-induced displacement and displacement with other causes where appropriate to conform to the Guiding Principle of avoiding displacement where possible.
9. Laws and policies need to be consistent with, and supportive of, practical programmatic measures taken when displacement occurs, and when return becomes possible.

¹⁰⁸ The ILO has established a manual entitled *Guidelines for Establishing Emergency Public Employment Services* (2003).