

Issue 41  
December 2012

# FORCED MIGRATION review

## Preventing displacement

*plus:* North Korea, Tanzania, Rohingya,  
UK, Nansen Initiative, emergency.lu,  
costs & impacts... and more





## From the editors

**P**reventing displacement is obviously a worthwhile objective. Being displaced puts people at a higher risk of being both impoverished and unable to enjoy their human rights. Such a situation is worth preventing – but not at any cost.

People know that displacement brings with it risks and vulnerabilities such as loss of land and work, homelessness, food insecurity, health risks, loss of access to common resources such as education, and possibly destruction of social networks upon which people depend, particularly during a crisis. “The effects of displacement can last a lifetime and beyond, damaging the prospects of future generations,” says Valerie Amos in the opening article. “We can do more to prevent displacement and the suffering it brings.”

It is important, however, to preserve the possibility of displacement when that is a choice, or indeed a necessity, and it is also worth remembering that two of the three traditional durable solutions – return and resettlement – both involve further displacement.

Addressing the causes of displacement – such as violent conflict, housing that cannot withstand a natural disaster, or a government that cannot guarantee a sustainable infrastructure – is the focus of some of the articles in this issue of FMR. Others look at how to manage situations that might cause displacement so as to make staying a better option. And yet others look at the legal and institutional context within which all this occurs.

**We would like to thank** Dina Abou Samra and Simon Bagshaw (UNOCHA) and Josep Zapater (UNHCR) for their invaluable assistance as special advisors on this issue’s feature theme. We are also very grateful to the Swiss Federal Department of Foreign Affairs, UNOCHA, Lex Justi and Refugees International for their funding support for this issue.

This issue of FMR also includes a number of articles about disparate aspects of forced migration: North Koreans in China, slum evictions in Tanzania, East Africans adapting to the UK, the Nansen Initiative, cultural orientation for resettlers to the US, making work safe for refugee women, the Rohingya, new initiatives in communications technology, and a new methodology for assessing the costs and impacts of displacement.

The full issue is **online** at [www.fmreview.org/preventing](http://www.fmreview.org/preventing) in html, pdf and audio formats.

A 4-sided expanded contents listing, **FMR41 Listing**, with introductory sentences and links to each article online, is available in print and online at [www.fmreview.org/preventing/FMR41listing.pdf](http://www.fmreview.org/preventing/FMR41listing.pdf)

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Unfortunately, for financial reasons, we are only able to print copies of this issue in English, rather than in all four of our usual languages. However, the French, Arabic and Spanish editions will be available online in html format, and the 4-sided contents summary (FMR41 Listing) will be available in all four languages in pdf format for reading online or printing off. We do apologise for any inconvenience, and expect issues of FMR in 2013 to be printed in all four languages. Meanwhile, please share the links to the French, Arabic and Spanish sections of our website with any colleagues who might find them useful:

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- FMR 42, due out April 2013, will focus on ‘**Sexual orientation and gender identity and the protection of forced migrants**’. Details at [www.fmreview.org/sogi](http://www.fmreview.org/sogi)
- FMR 43, due out May 2013, will focus on ‘**Fragile states and forced migration**’. Call for articles online at [www.fmreview.org/fragilestates](http://www.fmreview.org/fragilestates) Deadline for submissions: 7th January 2013.
- FMR 44, due out September 2013, will focus on ‘**Detention and deportation**’. Call for articles online at [www.fmreview.org/detention](http://www.fmreview.org/detention) Deadline for submissions: 15th April 2013.

### FMR’s 25th Anniversary

November 2012 marked the 25th anniversary of FMR and its predecessor, RPN. In recognition of this, we are putting together a collection of articles that will look back over 25 years of debate, learning and advocacy for the rights of displaced and stateless people – see back cover for details or visit [www.fmreview.org/25th-anniversary](http://www.fmreview.org/25th-anniversary)

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With our best wishes

**Marion Couldrey and Maurice Herson**  
Editors, Forced Migration Review

### Please read this

FMR 42 on ‘Sexual orientation and gender identity and the protection of forced migrants’ will, we know, be controversial in some parts of the world where readers of FMR live or work. We fear that receiving this FMR

issue may be risky for some readers. If you would like to express a preference about whether to receive this issue or not, write to us at [fmr@qeh.ox.ac.uk](mailto:fmr@qeh.ox.ac.uk).

**Forced Migration Review**

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FMR is funded entirely by donations and grants – including donations from individuals who read FMR. We can't tell you how many hygiene-kits/tents/schoolbooks for displaced people your donation will buy because it's not like that with a magazine that promotes the protection of and assistance to refugees and displaced people. What it will do is help keep the magazine going so that it can continue to support the

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# Preventing displacement

Valerie Amos

The figures speak for themselves. As of December 2011, more than 26 million people were internally displaced, forced from their homes by armed conflict and insecurity, while millions more had sought refuge abroad. In addition, an estimated 15 million people were displaced by natural disasters in 2011 alone.

What the figures do not tell us is what displacement means for the people who are affected. Suffering displacement is often just the beginning of a series of challenges including continuing insecurity, further displacement through attacks on camps and settlements, and exposure to threats including sexual violence, forced recruitment and human trafficking. The personal emotional toll is immense.

Despite the efforts of humanitarian organisations, displacement often leads to hunger and illness, both physical and mental. There is a loss of dignity, as individuals and families become dependent on others for survival. Children are unable to go to school and many are not able to get the health care that they need. The effects of displacement can last a lifetime and beyond, damaging the prospects of future generations. For many displaced people in the world, the experience can result in a permanent loss of livelihood or employment opportunities, and can turn into chronic destitution. People lose contact with their countries, their cultures, their communities. It is devastating.

For some, temporary displacement is a way of protecting communities threatened by violence or disaster. After the threat has passed, people are able to return to their homes. But this is only possible if freedom of movement is respected and every effort is made to find solutions to the underlying factors which create the displacement.

Displacement is not inevitable, so what can we do to prevent it?



We can press all parties to armed conflict to respect international humanitarian law and protect the ordinary men, women and children. Fewer people would flee if warring parties took the necessary steps to spare them from the effects of hostilities, and complied with the principles of distinction and proportionality. We can and must do more to compel warring parties to refrain from using forced displacement as a weapon of war.

In situations when it is used in this way, displacement may constitute a war crime or crime against humanity, and must be investigated and prosecuted as such.

The first international legally binding convention on Internally Displaced Persons, the African Union's Convention for the Protection and Assistance of IDPs in Africa, requires states to take preventive measures to protect people from displacement in line with their obligations under international law. It also requires states to designate focal points to deal with the issue. States are legally required to prevent the political, social, cultural and economic exclusion and marginalisation that are likely to precede displacement. They have specific obligations to allocate resources, adopt national policies and strategies, and enact or amend laws to ensure that displacement is prevented, and set up early warning systems in areas where it could pose a problem. The Convention will enter into force on 6th December 2012, and I urge those states that have not done so to sign and ratify it without delay.

We must also do more to prepare for, and prevent, the displacement caused by extreme weather events. For example, in countries where there is drought on a regular basis, we know it is going to happen so it should not result in malnutrition. Regular flooding should not wash away entire villages. The work of the humanitarian and development community should help communities become more resilient. When communities and households are resilient, they are more able to withstand climate-related and economic changes without needing to leave home in search of food, work or shelter. Technical training, effective contingency planning, availability of trained emergency response teams, installation of weather stations, campaigns to raise community awareness and the provision of key emergency equipment can be effective tools to prevent the loss of life and risk of displacement in these circumstances.

We all recognise the importance of infrastructure development projects, like dams for hydroelectric power, and the benefits that these can bring to national economies. But indigenous groups in particular often rely on the land for their livelihood and as a basis for their cultural identity. If displacement cannot be avoided in developing infrastructure projects, the people affected should be part of the decision-making process on how it is to be carried out, and should be fully informed of the rights, choices and economic alternatives open to them.

I welcome the focus of this issue of *Forced Migration Review*. By learning from and building on our experience and by working with a wide range of the people involved, we can do more to prevent displacement and the suffering it brings.

Valerie Amos is United Nations Emergency Relief Coordinator and Under-Secretary-General for Humanitarian Affairs. For more information contact Amanda Pitt, UNOCHA New York, at [pitta@un.org](mailto:pitta@un.org)

# The history and status of the right not to be displaced

Michèle Morel, Maria Stavropoulou and Jean-François Durieux

**The many existing fragments of law relating to arbitrary displacement have a common thread running through them, revealing a human right not to be displaced. The existence of such a right might seem obvious but it has not yet been recognised in any international legal instrument.**

In 1993, in the context of the huge displacement crisis in the former Yugoslavia, UN High Commissioner for Refugees Sadako Ogata spoke for the first time on the ‘right to remain’. In addressing the UN Commission on Human Rights she spoke boldly of the right of people to remain in their homes and homelands in peace, reflecting a shift in UNHCR’s own thinking about human rights issues and human rights violations in causing refugee movements.

Since the 1970s there had been a focus in international law on distinct aspects of arbitrary displacement, such as mass expulsions or population transfers, and a call for their prohibition. This work developed into fully fledged UN studies in the 1990s on population transfers. Another stream developed into UN studies on forced evictions, while – in an unrelated development – the International Labour Organization was exploring displacement and the rights of indigenous peoples, and the World Bank and others were debating development-induced displacement.

A first academic proposal suggested the following formulation for the right not to be displaced:

*“No one shall be forced to leave his or her home and no one shall be forcibly relocated or expelled from his or her country of nationality or area of habitual residence; unless under such conditions as provided by law solely for compelling reasons of national security or specific and demonstrated needs of their welfare or in a state of emergency as in cases of natural or man-made disasters. In such cases all possible measures shall be taken in order to guarantee the safe departure and resettlement of the people elsewhere....”<sup>1</sup>*

Not everyone was impressed with the promotion of a right not to be displaced or a right to remain. Opponents seemed particularly upset with Ogata’s ‘right to remain’, which they saw as duplicating existing human rights law and, more importantly, endangering the right to seek asylum. Proponents, on the other hand, noted that clarity and comprehensiveness in the law on displacement were both desirable and much needed. Some went so far as to propose a merger of nascent ‘IDP law’ and traditional refugee law, based on a comprehensive human rights treatment of forced migration within which displacement would be a clear violation.

Traditional refugee protection work had never been strong in addressing the causes of displacement, although it can also be argued that this apparent shortcoming is actually a strength in that it preserves the humanitarian – i.e. non-political – character of asylum. To the extent that UNHCR staff could, in the 1990s, conceive of their protection work in human rights terms, they logically

tended to emphasise the affirmation of people’s freedom of movement rather than an elusive right to remain and to receive protection *in situ*. Meanwhile, however, the agency found itself increasingly engaged with internal armed conflicts, and physically closer than ever before to very serious human rights violations causing displacement. Internal displacement, it was thought, was the issue in need of legal gap-filling, while asylum had to stand, as an indispensable last resort.

## Gaining ground

Upon taking office in 1992, the first Representative of the Secretary-General on Internally Displaced Persons, Francis M Deng, made it clear that he considered dealing with the causes of displacement to be an integral part of any effort to promote the rights of internally displaced persons. Even so, it took him some time to convince his team of legal experts. Under the heading ‘Principles Relating to Protection from Displacement’ (and clearly not limited to internal displacement), Principles 5 to 9 of the Guiding Principles on Internal Displacement articulate the “right [of every human being] to be protected against being arbitrarily displaced from his or her home or place of habitual residence” and the circumstances, standards and modalities (both substantive and procedural) under which displacement is permissible. States have both the duty to respect the right not to be displaced by refraining from carrying out arbitrary displacement, and the duty to protect the right from being threatened by non-state actors, such as armed militias, or particular circumstances, like natural or human-made disasters.

The team drafting the Guiding Principles had a distinct sense that Principles 5 to 9 were breaking new ground in international law, even though the Guiding Principles as a whole were, and largely remain, ‘soft law’ only. The Guiding Principles also address the concern that the right not to be displaced would endanger or substitute the right to seek asylum by expressly providing that the Principles “are without prejudice to the right to seek and enjoy asylum in other countries”.<sup>2</sup> Indeed, these two human rights can be considered as being fully complementary, offering a choice (at least in theory) to potential victims of displacement: to stay or to move.

Since the formulation of the Guiding Principles on Internal Displacement, the right not to be displaced has been explicitly recognised in a number of international, regional and sub-regional instruments. In 2000, the International Law Association (ILA), a non-governmental organisation devoted to the study and development of international law, adopted the London Declaration of International Law Principles on Internally Displaced Persons which includes an explicit reference to the



A family hurries away from the Abobo neighbourhood in search of safety during political unrest in Abidjan, Côte d'Ivoire, 2011.

right not to be displaced.<sup>3</sup> Five years later, the Special Rapporteur on Housing and Property Restitution, Paulo Sérgio Pinheiro, articulated the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (commonly known as the Pinheiro Principles). Principle 5(1) explicitly recognises the right not to be arbitrarily displaced, almost exactly copying the Guiding Principles. Although these instruments are not legally binding, they are evidence of the widespread acceptance of Principles 5 to 9.

In 2006, eleven African states of the Great Lakes Region adopted the Protocol on the Protection and Assistance to Internally Displaced Persons. This Protocol was the first legally binding instrument to oblige states to implement the Guiding Principles on Internal Displacement (and thus the right not to be displaced). A last, important development was the African Union's adoption in 2009 of the legally binding Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention), article 4(4) of which expressly lays down the right not to be displaced.

Globally, about twenty states have to date incorporated the Guiding Principles into their national legislation and policy, and/or have drawn inspiration from them, at least implying a degree of approval of the right not to be displaced. In other words, the right not to be displaced has on various occasions been recognised as a universally applicable human right, and can therefore be considered as an emerging right in international law. That it is derived from or implied by other, well-

established human rights – in particular the right to freedom of movement and residence, the right to private life and the right to adequate housing – is beyond dispute. Nonetheless, the 'naming effect', i.e. restating and clarifying a legal norm in a legally binding or otherwise authoritative instrument, thereby defining explicitly what is implicit in international law, is likely to significantly strengthen existing protection.

The express recognition of the right not to be displaced has considerable symbolic value. It gives a clear signal to state and non-state actors actively involved in the displacement of people by affirming the intolerable character of such practices. In addition, it serves as a solid legal framework guiding responsible actors in their various duties in relation to the prevention of arbitrary displacement. And for potential victims of arbitrary displacement it may ease their struggle against state conduct or policy decisions before these lead to unlawful displacement.

In addition, the right not to be displaced provides victims of arbitrary displacement wishing to hold their states accountable with a stronger legal basis to plead their case and bring successful claims for remedy and reparation before judicial or quasi-judicial bodies, since a 'detour' through other human rights is no longer necessary.

#### The way forward

The majority of the instruments explicitly laying down the right not to be displaced are 'soft law'. In order to strengthen legal protection from displacement,

three things are needed. First, the right not to be displaced should be more firmly recognised by a competent, authoritative body (such as the UN General Assembly or UN Human Rights Council) in an authoritative international instrument (such as a new convention, a protocol to existing human rights conventions, or a resolution). A working group may be established and mandated by the Human Rights Council to (re-)examine the right not to be displaced and draft an appropriate normative instrument.<sup>4</sup>

Secondly, efforts must be undertaken to further clarify and make concrete the contents of the right not to be displaced. This includes establishing its personal, substantive, territorial and temporal scope of application, spelling out as precisely as possible the rights attributed to individuals and obligations imposed on states, and detailing the conditions under which the right can be lawfully restricted. Human rights courts, commissions and committees, as well as scholars, can all contribute to the clarification and interpretation of the right not to be displaced.

Thirdly, the right not to be displaced must be more than just a lofty declaration of intent. Both at the international and the domestic level, measures and initiatives must be introduced in order to implement, enforce and effectively realise this right. Such implementation and enforcement measures should aim at the prevention of arbitrary displacement; the halting of ongoing violations of the right not to be displaced; the effective

punishment of perpetrators; and the provision of remedies and reparations for victims of arbitrary displacement, including access to justice, restitution and/or compensation and rehabilitation. At the international level, we would propose the establishment of a new Committee on the Protection from Arbitrary Displacement to monitor and enforce the right not to be displaced.

The recognition and effective realisation of the right not to be displaced should not remain a utopian pursuit. Tackling displacement at its roots through a rights-based approach is definitely the way forward.

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1. Stavropoulou, M (1994) 'The right not to be displaced', *American University Journal of International Law and Policy* 9(3), 689-749.

2. Principle 2(2)

3. Article 4(1)

4. In this respect, inspiration could be drawn from the legal developments as regards the prohibition of enforced disappearance.

See [www.icrc.org/customary-ihl/eng/docs/v1\\_cha\\_chapter32\\_rule98](http://www.icrc.org/customary-ihl/eng/docs/v1_cha_chapter32_rule98)

### International Humanitarian Law: a short summary of relevant provisions

The law of armed conflict – also known as international humanitarian law (IHL) – is the body of international law that most clearly codifies binding standards for the prevention of displacement. IHL is not concerned with the lawfulness or otherwise of armed conflicts but governs conduct during conflict, setting humanitarian considerations against military necessity.

Violations of IHL include attacks against and ill-treatment of civilians, destruction of property, sexual violence and restricted access to health care and other essential services. IHL, in particular as codified in the Geneva Conventions of 1949 and their Additional Protocols of 1977, contains important provisions to prevent the displacement of people and for the protection of persons forced to flee.

Many of these provisions are considered to have become international customary law. The Fourth Geneva Convention (GCIV) deals specifically with the protection of civilian persons in times of war, including occupation. Internally Displaced Persons (IDPs) are part of the civilian population and therefore are entitled to receive the same protections as other civilians against the consequences of war. Additional Protocol I (API) supplements these protections in times of international armed conflicts, and Additional Protocol II (APII) in times of non-international armed conflicts. States have the responsibility to implement these protections in their domestic legal framework.

Although not every conflict-related displacement necessarily represents a breach of IHL, international customary

humanitarian law as well as the two Protocols prohibit the displacement of civilians – whether within the borders of a country or across international borders – or their forcible deportation or transfer from occupied territories unless the security of the civilians involved or imperative military reasons require it. (GCIV in particular Art. 4 and 27.) Other important provisions are API Art. 51 and 75, and APII Art. 4 and 5, ICHL Rules 1 and 7. Under IHL, displaced persons have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist. (GC IV Art. 49 and 147, AP I Art. 51(7), 78(1) and 85(4)(a) AP II Art. 4(3)(e) and 17, *International Customary Humanitarian Law (ICHL) Rules 129 and 132.*)

In armed conflict situations, civilian property and possessions shall not be subject to pillage (GC IV Art. 33, ICHL Rule 52) or direct or indiscriminate attacks (AP I Art. 85, ICHL Rule 11), used as a shield for military operations or objectives (AP I Art. 51) or destruction or appropriation as reprisal (AP I Art. 52) or collective punishment (AP I Art. 75(2)(d)).

Shelter is not specifically provided for in the protection of protected persons under the Geneva Conventions and Additional Protocols; however, the extensive destruction and appropriation of housing is prohibited. (GC IV Art. 147)

The obligation to transfer persons evacuated in or from occupied territories back to their homes as soon as hostilities have ceased there implies the right to recovery of their property. More particularly, the property rights of displaced persons must be respected. (ICHL Rule 133.)

# To prevent or pursue displacement?

Casey Barrs

**The repertoire of survival actions of at-risk civilians includes both avoiding and attempting displacement. But there are also overlaps, combinations and tacking back and forth between the two, while trying to mitigate the risks that any choice entails.**

The perception of displacement as the failure of outsiders to prevent civilians being driven from their homes rests on several arguable assumptions: firstly, that displacement should be prevented, not pursued; secondly, that displacement can be most influenced by outsiders, not locals; and, thirdly, that displacement is about one particular moment when people are forced to flee.

Wisely or not, civilians often try to hold their ground. Displacement can disrupt life-critical sustenance, services, and protective social units and networks. Flight can be perilous and destinations thought to be safer often turn out to be deadly as well. If in a given situation both staying and going are dangerous choices, then familiarity with one's home ground might – or might not – be a decisive argument for staying. As Fred Cuny said, "Any strategy that can help reduce displacement is an important element in reducing the number of deaths." He found that when mortality rates among refugees and those who remain behind in conflict areas are compared, in most cases people have a better chance of survival in conflict zones.

On the other hand, civilians should – and often do – prepare for a failure to prevent flight and this readiness can reduce a range of risks. In the field of natural disaster risk reduction, everyone plans for self-displacement. But the political, social and visceral reaction to threat by monsoon differs from that to threat by machete.

Armed groups sometimes build their readiness for years. Without foresight, civilians might have only minutes. Nonetheless, the best posture for saving lives is to try to be prepared to either prevent or pursue displacement. It can be argued that civilians have a right to either stay or go as they determine best. For people experiencing violence the issue is more tactical than legal. Our liberal-democratic formula of duty bearers and rights holders does not offer any tactical skills for living out those rights by outliving killers. And humanitarians, even when in the assumed role of protector, in reality are often the first to be displaced.

Walter Kälin, the former UN Secretary-General's Representative on the Human Rights of Internally Displaced Persons, contends that constant new instances of displacement indicate that the international community is failing in its duties. And indeed, efforts to influence dangerous actors and events far too often fail, leaving the outcome determined by either the self-restraint of belligerents or the self-protection of civilians themselves. But others emphasise that the three main determinants of the survival of civilians facing violence, whether *in situ* or in flight, are the actions of belligerent parties, of third parties and of endangered civilians themselves. Too much of the debate and policy regarding at-risk civilians excludes those civilians.

The truth is that outsiders' efforts to prevent displacement might sometimes be motivated by the desire of outside parties to contain population flows. And sometimes these efforts not only fail but can place locals further in harm's way; encouragement to stay in place might interrupt local survival strategies – including displacement.

The international community does not often control whether displacement will be prevented or will be pursued but locals sometimes do. The term 'forced migration' might not capture the degree of local autonomy and the range of intelligent choices even within coercive conditions. Seeing and supporting this potential requires humility on the part of outsiders and consideration of the types of Plan B that locals almost always begin to develop.

The idea of supporting local capacity for self-preservation is not new. There is much that aid organisations can do to build on the strategies that communities employ in order to "maintain their assets, escape violence, and mitigate threats."<sup>1</sup> The UN's Inter-Agency Standing Committee suggests bolstering remote management by partnering with proven indigenous providers, emphasising innovative, localised humanitarian access. It also argues that "practical protection is provided first of all by and through the community." Whatever mechanisms of support are chosen, the bedrock must be consultation.

Civilians decide whether to prevent or pursue displacement – and how best to mitigate the risks of either choice – based on their calculations about safety as well as livelihood and life-critical services. The international community is often mindful of the hard choices that locals face in the months and years preceding physical displacement and has developed a range of stratagems. It offers its presence and accompaniment, and supports local efforts at mediation, dialogue, and other approaches to transform or manage conflict. It sometimes encourages community policing, early warning structures and contingency planning. It often supports livelihoods amid chronic instability in the hope of helping locals to maintain the wherewithal to stay *in situ*. And it increasingly establishes remote control apparatus so projects can continue through local counterpart staff and partners even after it evacuates.

But there is universal agreement that these well-intended efforts do not succeed often enough and so it is vital to look at the often stark disconnects between how **we** seek to prevent or mitigate displacement and how **locals** do.

## Tactics for managing risk

Loss of security, collapse of sustenance and breakdown of services (especially health care) are frequently called conflict's 'centre of gravity' and are the factors most likely to induce people to move. As violence closes in, families and communities try to augment



We may be more inclined to...		While locals may be more inclined to...
Promote dialogue with controlling powers	↔	Cut deals with controlling powers
Send early warning to duty bearers	↔	Send early warning to those in harm's way
Keep families together at all costs	↔	Split families up based on tactical calculations
Support western-style 'community policing'	↔	Police using skills suited for not just lawlessness but also armed conflict
Provide livelihood supports premised on relief then recovery of production and markets	↔	Take livelihood steps premised on return of violence and collapse of formal economy
Focus on improved agriculture and marketable cash crops to the neglect of conflict-resistant subsistence farming and foraging practices	↔	Pursue subsistence farming and foraging – and the tactics of scouting, safe movement and hidden farm lots that make it safer
Consider asset stripping counter-intuitive and anti-development	↔	Strip and transfer assets in order to protect family wealth; remove resources that invite attack; keep those assets out of the hands of criminals and belligerents; and put those resources into hands of trusted first responders, thus strengthening those networks
Malign black markets and avoid informal money transfer agents	↔	Use both to a very great degree
Help prepare local staff and partners for conventional aid delivery on their own	↔	Pursue the tactics and architecture of more discreet and mobile aid

their physical safety, adapt livelihoods and modify indigenous methods of aid delivery. In their experience, displacement is not merely defined by movement away from a location but is also about dismantling and reassembling a range of essential practices. Even when staying, people often make decisions more consequential even than flight. The following are some of the hundreds of tactics cited in the Cuny Center report *How Civilians Survive Violence: A Preliminary Inventory*.<sup>2</sup>

**To enhance safety** they may persuade threatening actors they are helpful or harmless; fabricate false identities; persuade community members to remain non-aligned and peaceful; cut deals with threatening actors; improve skills of information gathering, assessment and disinformation; split family up based on safety and economic considerations; commute between home/farm and shadow settlements; establish or build on non-formal policing; establish conflict early-warning/response systems; help specific vulnerable or threatened groups with personal safety measures; help families and other social networks prepare contingency plans for violence; pursue useful ties to powerful patrons; take up arms, or ally with armed protectors.

**To underpin sustenance** they may diversify or substitute conventional livelihood practices by, for example, reducing consumption, expenditure and investment, pooling or selling assets, pursuing subsistence agriculture or foraging, or entering shadow (black market) and coping economies. In support of these tactics they may, for example, make pay-offs – fees, taxes or bribes – in order to pursue livelihood activities unmolested.

In addition they may look for external support by seeking out patronage networks – most commonly among religious, business, political or armed entities

– and expand money networks such as personal or commercial borrowing and foreign remittances. Finally, as forms of deliberate 'material displacement', they may use 'strip and transfer' tactics of redeeming, dismantling, liquidating, caching, depositing, temporarily forfeiting, scorching and more.

**To protect indigenous services** they may adapt or adopt skills that put service delivery on a conflict footing, emphasising information gathering and assessment, sensitive communication and safe movement. The architecture of service delivery is often altered, using remote and low-profile practices, deconstructing services into more discreet and mobile forms, downsizing infrastructure, dispersing supplies, staff and beneficiaries, and delegating work.

Better consultation reveals the capacity of local providers and populations to make wise risk-benefit calculations that differ from those of outsiders. The Cuny Center report, *Preparedness Support*, outlines one such process of consultation. Preparedness support rests on the abilities of local counterparts and communities for self-preservation and on our ability to help them cultivate their capacities and shorten the time it takes them to learn in life-threatening circumstances. It is based on listening to what they know, supporting what already works, and – perhaps – advising on additional tactics from which they can choose and then mobilise. Locals deserve this support.

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1. Sorcha O'Callaghan and Sara Pantuliano, *Protective Action: Incorporating Civilian Protection into Humanitarian Response*, HPG Report No. 26, Humanitarian Policy Group, Overseas Development Institute, London, December 2007; pp 4 and 35 [www.odi.org.uk/resources/docs/1640.pdf](http://www.odi.org.uk/resources/docs/1640.pdf)

2. <http://tinyurl.com/HowCiviliansSurvive>

# The 'tool box' at states' disposal to prevent displacement: a Swiss perspective

Isabelle Gómez Truedsson

**A harmful action that is looming and has not yet taken place is difficult for third-party states to denounce or counter. Nevertheless, a whole range of measures and methodologies is at their disposal enabling them to contribute to the prevention of forced displacement.**

Since internal displacement takes place within the boundaries of a state, its prevention and the protection of internally displaced persons (IDPs) are first and foremost a duty of the concerned state. However, other states not confronted with displacement on their own territory, such as Switzerland, have a moral and legal obligation to contribute to ensuring respect for human rights and humanitarian law conventions they ratified. This is a sensitive and often highly politicised issue as the protection of IDPs is essentially a national responsibility; it is closely linked to the sovereignty of the concerned states, which may consider other states' actions on forced displacement to be undue interference.

This challenge is even more pressing in the case of the prevention of forced displacement. In choosing the appropriate instruments, it is useful for third-party states to distinguish between two types of interventions: those aiming at preventing first-time forced displacement and those addressing the prevention of the repetition of forced displacement. In both cases, however, key elements such as justice, security and development issues need to be addressed. The following are a selection of 'tools' used by Switzerland to contribute to the prevention of both types of displacement.

## Promoting existing instruments and addressing legal gaps

Existing instruments such as the Guiding Principles on Internal Displacement, the Great Lakes Protocol and the Kampala Convention are key instruments for the prevention of forced displacement. However, they are only useful in so far as they are widely recognised and applied, for example through translation into national law. The support of states can in this context be of great value and usually takes two forms: firstly, states can indirectly contribute to the promotion and dissemination of these instruments by supporting the mandate of the Special Rapporteur on the Human Rights of IDPs. This support can be either financial or through advocacy around threats of displacement. If the latter, the interactive dialogues with the Special Rapporteur in the framework of the General Assembly of the UN in New York or the Human Rights Council in Geneva are valuable settings to point out impending threats of displacement.

Secondly, states can respond directly in specific cases. In 2011, for example, Switzerland started a project in Nigeria in collaboration with the Internal Displacement Monitoring Centre to contribute to the ratification and implementation of the Kampala Convention. As a result of the project a coordination platform for civil society actors working on displacement issues was created. Currently, in late 2012, the third phase of the project implementing a

'training of trainers' on IDP issues and more specifically on the Kampala Convention is being carried out.

States might also address legal gaps regarding the prevention of displacement and the implementation of protection. Switzerland is currently working with Norway and other interested states on the compilation of measures regarding the prevention of and the response to cross-border displacement in the context of natural disasters. This resulted in the launch in October 2012 in Geneva of the 'Nansen Initiative', which specifically addresses the category of persons who are covered neither by the Refugee Convention nor the Guiding Principles on Internal Displacement and thus left without protection. Even though human rights law applies to these specific cases, critical issues such as admission, temporary or permanent stay and basic rights are not covered.<sup>1</sup>

## Promoting compliance with international law in armed conflicts

For the prevention of conflict-related displacement, the main tool at the disposal of third-party states is the promotion of compliance with international law. Even though forced displacement can under very specific conditions (such as to protect people from the threat of military operations) be allowable in international law, it usually results directly or indirectly from violations of international law. Ensuring that all parties to a conflict, as well as the civilians threatened with displacement, are aware of their rights and duties guaranteed by international law is therefore an effective tool to prevent or at least limit displacement. The Swiss government thus actively advocates for better implementation of international law, as specified in its Strategy on the Protection of Civilians in Armed Conflict.<sup>2</sup>

As a means to hold violators of international law in situations of armed conflict and internal disturbances to account and thereby prevent future violations of international law, monitoring, reporting and fact-finding mechanisms (MRF) have gained in importance in recent years. However, actors engaged in MRF suffer from a paucity of research and guidance on the topic. Switzerland is therefore currently supporting a multi-annual research and policy project led by the Program on Humanitarian Policy and Conflict Research which is geared towards developing capacity-building measures, training opportunities and practical guidance for practitioners engaged in MRF.

## Dialogue with armed groups to better protect civilians

Another line of action consists of involving armed groups, which are often part of the problem causing internal displacement and have therefore to be included

in seeking solutions. In addition to direct dialogue with some of these groups – mostly in the context of peace mediation – Switzerland supports a number of policy projects aiming at better equipping those engaged in humanitarian dialogue with armed groups. One of these is the project ‘Rules of Engagement’ carried out by the Geneva Academy for International Humanitarian Law and Human Rights which explores engagement with these groups on compliance with international norms. Switzerland also recently mandated the NGO Geneva Call to investigate in detail the role of armed groups during the different stages of displacement as well their role as potential preventers of displacement. The results are expected in early-to-mid 2013.

### Support to local and international NGOs and to governments

Other governments requiring technical assistance with regard to specific aspects of forced displacement are also important partners. In Colombia, for instance, Switzerland is assisting the Ministry for Agriculture with applying a ‘Do-No-Harm Approach’ to the implementation of the Victims and Land Restitution Law which came into force in 2011.<sup>3</sup> This law aims at rendering the return of IDPs possible and creating conditions which contribute to avoiding further displacement in the future. By using this Approach, unintended effects resulting from the law’s implementation which might provoke even further displacement can be identified and avoided. Such cooperation can be complemented with support to specialised local and international

NGOs. Thus Switzerland is also supporting the national Red Cross Society in Colombia to develop measures to enhance preparedness in case of natural disasters, thereby contributing to the prevention of forced displacement in these circumstances.

### Dealing-With-the-Past Approach to preventing repetition of displacement

Another methodology to specifically prevent the repetition of forced displacement is the ‘Dealing-With-the-Past Approach’. In case of a potential recurrence of forced displacement, national prevention strategies should abstain from treating IDPs separately but rather include the specific effort to prevent further forced displacement in a more general approach applicable to all victims of past human rights abuses. The Dealing-With-the-Past Approach, which brings together the rights of victims and societies and the duties of states in the field of truth, justice, reparation and guarantee of non-recurrence, is useful for states wishing to develop a national strategy to deal with past human rights abuses. Through its Task Force Dealing with the Past and Prevention of Atrocities Switzerland advises states on how to integrate the aspects of dealing with the past into their policies and strategies. It has also contributed to specific studies on the link between internal displacement and transitional justice. The Task Force will furthermore seek to strengthen the linkages and collaborations between the mandates of the Special Rapporteur on the Human Rights of IDPs and the Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non-Recurrence.



The remains of a torched house in western Côte d'Ivoire, 2011.

## Conclusion

Addressing forced displacement, in particular its prevention, is a delicate issue for states since the main responsibility to prevent and protect lies with the concerned state. However, a range of tools and methodologies is at the disposal of third-party states, allowing them to address this potentially highly controversial issue without infringing other states' sovereignty. These tools provide them with the opportunity to act in support of existing protection measures targeting the prevention of displacement as well as to further the development of new protection measures at national, regional and international levels. Partnerships with a variety of actors such as fellow states, the Special Rapporteur on IDPs, international organisations or local

NGOs can and should be further developed for this aim. States are thus key actors to help prevent displacement – on their own territory as well as in the international arena.

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1. See 'From the Nansen Principles to the Nansen Initiative' by Walter Kälin on pp48-9
2. In 2009 Switzerland developed this strategy to reinforce its commitment to respond more effectively to the challenges associated with the protection of civilians in armed conflict, to enhance the effectiveness of its multilateral and bilateral efforts and to consolidate its international stance on the issue. The strategy is currently being revised.
3. This law regulates land restitution to victims of conflict and explicitly recognises the existence of an armed conflict in Colombia. It seeks to address the problems caused by the land dispossession which the displaced population has faced during recent decades. Numerous potential beneficiaries have been threatened and thus prevented from claiming their rights. The Do-No-Harm Approach has been developed by the Swiss Agency for Development and Cooperation since 2004.

## Driving displacement: explosive weapons in populated areas

Simon Bagshaw

Forced displacement has many drivers but one of increasing concern is the use of explosive weapons in densely populated areas. Whether in Gaza during Operation Cast Lead in December 2008 to January 2009, during the final gruelling stages of the conflict in Sri Lanka, or in Aleppo and Homs in present-day Syria, the use of explosive weapons in densely populated areas encourages the forced displacement of hundreds of thousands of people.

Explosive weapons vary considerably, and include artillery shells, missile and rocket warheads, mortars, aircraft bombs, grenades and improvised explosive devices. Their common feature, however, is that they are indiscriminate within their zones of blast and fragmentation effect, which makes their use in populated areas highly problematic. Data collected across a range of conflicts, including Afghanistan, Iraq, Somalia and Yemen, reveal substantial and ongoing civilian suffering, both physical and psychological, caused by the blast and fragmentation effects of such weapons in populated areas. A study this year by Action on Armed Violence found that 87% of civilian deaths and injuries occurred in populated areas, including markets, schools, places of worship and private homes.<sup>1</sup>

While it is difficult to attribute displacement directly to explosive weapons, their use has obvious implications for the displacement of civilians. To begin with, people are forced to flee areas under attack. If and when the fighting ceases or moves on, people are often unable to return due to the widespread destruction of, and damage to, their homes, sources of livelihood and essential infrastructure such as water and sanitation systems. Unexploded ordnance poses a continuing

threat to civilians, including returning refugees and internally displaced persons, until it is removed.

The need to address this issue has recently risen up the international agenda, with ICRC,<sup>2</sup> the UN Secretary-General,<sup>3</sup> UN Emergency Relief Coordinator Valerie Amos, the Security Council and the General Assembly all noting or speaking out against the impact of the use of heavy weapons in population centres.



Children in Assas, Syria, playing with casings and unexploded shells, 2012.

Civil society has also mobilised around the issue. In March 2011 an NGO coalition, the International Network on Explosive Weapons (INEW<sup>4</sup>), was established, calling on states and other actors to strive to avoid the harm caused by explosive weapons in populated areas, to gather and make available relevant data, to realise the rights of victims, and to develop stronger international standards. Data collection and analysis are essential to deepening our understanding of the humanitarian impact of such weapons and to inform policy and

practice; an important element in this would be more detailed analysis of the impact of explosive weapons in terms of causing and prolonging displacement.

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1. Action on Armed Violence, *Monitoring Explosive Violence: The EVMP Dataset 2011* (2012) <http://tinyurl.com/aoav-evmp2011>
2. ICRC, *International Humanitarian Law and the Challenges of Contemporary Conflicts – Report prepared for the 31st International Conference of the Red Cross and Red Crescent* (October 2011) p42 <http://tinyurl.com/icrc-31st-int-conf-ihl>
3. See *Report of the Secretary-General on the protection of civilians in armed conflict*, S/2009/277 (29 May 2009), S/2010/579 (11 November 2010) and S/2012/376 (22 May 2012)<sup>4</sup>
4. [www.inew.org](http://www.inew.org)

# Predicting disasters and protecting rights

Justin Ginnetti and Nina Schrepfer

**In order to prevent or reduce disaster-related displacement, we need to address some clear gaps in both knowledge and capacity by improving research on and awareness of disaster risks and associated human rights, and the capacity to address them.**

Disaster-related displacement affects millions of people every year<sup>1</sup> and is determined by multiple factors: the magnitude or intensity of the hazard, the number of people and homes exposed to it, and the level of vulnerability affecting their coping capacity and resilience. Research into disaster risks can help authorities identify displacement risks and prevent disaster-related displacement from occurring.

A number of probability models have been developed to predict the magnitude and frequency of future impacts, including displacement, based on both recorded and simulated disaster impacts (usually, fatalities and economic losses). Initial results from such models have proven to be somewhat conservative compared to governments' recorded statistics for people displaced in relation to disasters but they can nevertheless give authorities an idea of how many people are likely to be displaced in relation to disasters that occur every month, year or decade, as well as an idea of how to prevent and prepare for such occurrences. Local and provincial authorities know, for example, that small, frequently occurring disasters (and the displacements associated with them) will not trigger large international humanitarian response – and that disaster prevention or disaster risk reduction might therefore be more cost-effective options.

Disaster risk reduction can effectively prevent the displacement of people. In the case of predictable disasters, authorities are indeed obliged to take measures to reduce the disaster risks to protect people's lives and property – and this may entail evacuation i.e. displacement. The European Court of Human Rights in its landmark ruling against Russia<sup>2</sup> found a violation of the right to life of those killed by a landslide, because authorities – despite knowing the imminent risk – had not taken available and efficient measures to protect the right to life as well as the right to property. The Court identified four core duties deriving from the right to life: to enact and implement laws and policies on disaster management; to take necessary administrative measures such as observing areas at risk; to inform the population about the risks and dangers; and to evacuate potentially affected populations.

When evacuations are ordered and people relocated to safer areas prior to the disaster, displacement can sometimes be a means to reduce certain disaster risks, such as the risk of being killed. Evacuations and relocations that are considered necessary to protect the safety and health of people and that adhere to legal standards do not amount to arbitrary displacement and are not prohibited under international law. However, poorly planned and badly managed evacuations and relocations raise serious human rights concerns.

For example, the evacuation plans in place for Hurricane Katrina in 2005 relied on the availability of private means of transport, which discriminated against poorer sections

of the population who did not own a car – and who also lived in the most exposed areas of New Orleans. In Mozambique in 2008, authorities decided to relocate communities living along the Zambezi River to higher areas because of the recurrent nature of the flooding in these areas. The relocation areas, however, did not provide for livelihood opportunities and the displaced – largely farmers – had no access to pasture and water or other agricultural assets to establish a new livelihood.

Disaster risk reduction measures that include the displacement of people, as in the case of evacuations and relocations, must be sensitive to the human rights of those affected. Particularly critical are the provision of information, and consultation and participation of communities in the planning and management of such measures. Such inclusion of populations at risk is likely to lower the risk of forced evacuations and relocations and avoid human rights violations in their implementation. The eight criteria outlined in the 2010 IASC Framework on Durable Solutions for Internally Displaced Persons<sup>3</sup> should be applied to permanent relocation to determine whether the relocation lives up to these benchmarks.

Despite these developments in awareness, important knowledge gaps remain and need to be addressed. The most pressing need is to understand what internal displacement means in contexts of slow-onset disasters as well as for methods that can estimate the scale, scope and patterns of displacement related to droughts and other hazards (e.g. volcanic ash fallout) that do not always cause direct damage to the housing sector and which instead cause displacement indirectly by undermining livelihoods. In an initial phase of a drought communities are likely to migrate as a form of adaptation. However, when such communities have no other choice but to leave their lands and homes, this is not a mere migratory movement but displacement.

Our understanding and analysis must also take into account that there are usually multiple factors that influence displacements due to slow-onset disasters. For example, particular attention must be paid to the inter-linkages between droughts and conflicts that may arise over scarce resources as well as famine as result of drought.

## Recommendations for national, provincial and local authorities

- **Systematically record displacement data**

Disaster impacts are currently gathered in national and international databases. While some of these databases include information on the number of houses damaged or destroyed, most do not record displacement-specific data such as how many people have been displaced, for how long, from where, to where. By systematically recording information related to

these past displacements, authorities can understand the patterns and drivers of displacement which can help them prevent such occurrences in the future.

- **Assess the risk of displacement**

Knowing how many people have been displaced in past or ongoing disasters is useful but it is not enough. In order to prevent future disaster-related displacement, authorities need to know how many people may be displaced in the future. This means thinking about risk, and adapting disaster risk models to assess how many and how often people are at risk of being displaced in a given location, be it a country, province or municipality.

- **Reduce displacement risks that can be reduced – prepare for those that remain**

Some, but not all, disaster-related displacement can be prevented, especially displacement related to frequently occurring, low-intensity hazards such as seasonal floods, Category 1 or 2 cyclones, or small earthquakes. In the face of massive earthquakes, cyclones and tsunamis, live-saving early warning and evacuation systems are often the most effective strategy. By assessing the risk of displacement, authorities can identify how much displacement can be prevented, and how much should be prepared for. This is crucial information in terms of planning evacuation routes and evacuation centres, and allocating resources for early recovery and reconstruction. Preparing for displacement also means understanding the legal obligation to protect the rights of people displaced by disasters. Governments can improve their ability to meet these obligations by addressing displacement in development, disaster-risk management and climate change adaptation plans.

- **Address the drivers of displacement risk**

Such drivers include land-use planning, sustainable management of urban growth and ecosystems, design and enforcement of building codes, and building of governance capacity to do each of these. Though the drivers of displacement risk are fairly well understood, managing these processes is currently beyond the capacity of many national, provincial and local governments.

- **Build political will to protect the rights of those at risk**

As long as people continue to be displaced in relation to disasters, it is essential that vulnerable communities and their advocates promote their rights. This means providing duty bearers with evidence that they understand and can act on, and it means informing the public of the risks, both to build political will and to hold authorities accountable. More effective coordination is needed among human rights, disaster risk reduction and development actors if they are to assist in building political will and accountability, and encouraging governments to sign up to and implement legal instruments relating to internal displacement, disaster risks and human rights.

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1. See *People displaced by natural hazard-induced disasters: Global estimates for 2011*. Internal Displacement Monitoring Centre, Geneva. <http://tinyurl.com/IDMC-NaturalDisasters2011>

2. ECtHR, *Budayeva and Others v Russia*, Judgment of 20 March 2008. See Walter Kälin and Claudine Haenni Dale 'Disaster risk mitigation – why human rights matter', FMR 31 [www.fmreview.org/FMRpdfs/FMR31/38-39.pdf](http://www.fmreview.org/FMRpdfs/FMR31/38-39.pdf)

3. Inter-Agency Standing Committee (IASC) (2010), *Framework on Durable Solutions for Internally Displaced Persons*. Brookings-Bern Project on Internal Displacement. <http://tinyurl.com/Brookings-DurableSolutions2010>

## Towards a uniform legal system of protection

Dimitrios Chotouras

**There exists a set of inter-related normative texts for the protection of the environment and for the prevention and reduction of disasters, as well as for ensuring respect for human rights in all circumstances. Taken together these standards constitute an effective legal and operational framework and should not be interpreted independently or in isolation.**

The Guiding Principles on Internal Displacement and the Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) of 2009 already specifically place national governments under an obligation to set up a legal framework to prevent displacement. Three other areas of law could be considered, however, to show the relationship between governments' various obligations and to make a more effective contribution to reducing the risk of displacement:

### 1. Reducing disasters

The mechanism for disaster reduction enshrined in the Hyogo Framework for Action gives governments responsibility for reducing natural and anthropogenic environmental risks and protecting populations by introducing policies, programmes or legislation aimed at reducing natural threats.<sup>1</sup> The problem of displacement was not initially included in disaster management.

The strategies developed, however, have enhanced the ability to respond to such situations and can have a significant impact on the extent of displacement.

At a national level, such an obligation has been included in the constitutional provisions of several countries. The Ethiopian Constitution of 1994, for example, states that the government "shall take measures to provide protection against natural and man-made disasters; and, in the event of disasters, it shall provide timely assistance to the victims." Other governments have adopted national regulations. India's 2005 Disaster Management Act in India, Tuvalu's 2008 National Disaster Management Act and the Philippines' 2010 Disaster Risk Reduction and Management Act all aim to institutionalise measures to reduce the risk of disasters in order to increase the resilience of vulnerable communities and tackle the issue of displacement.

At a regional level, the 2005 ASEAN Agreement on Disaster Management and Emergency Response and the 2005-15 Madang Framework for Action for the Pacific both emphasise the introduction of binding measures in relation to prevention. The 1987 European and Mediterranean Major Hazards Agreement also aspires to strengthen the region's preventive approach to natural and technological disasters. At an international level, the specialist institutions of the UN are required to work in ways that support the implementation of the Hyogo Framework for Action.

As far as displacement due to industrial accidents in particular is concerned, the prevention system for industrial disasters is not solely limited to the obligations of the Hyogo Framework. Although the incident at Japan's Fukushima nuclear power station in March 2011 resulted in the displacement of 40,000 people, various national and international conventions and agreements relating to the issue of prevention and assistance have been adopted, obliging governments to implement proper national policies for protecting the environment and populations under threat.

## 2. Protecting human rights

As far as the human rights-centred approach is concerned, the consequences of environmental damage on life, health or property impose an obligation on national governments to adopt preventive measures in order to avoid – as far as possible – populations being displaced and to respect their fundamental rights. The European Court of Human Rights stated, in the case of *Öneryıldız v. Turkey*, that prevention is the primary duty of the state and is derived from its positive obligation to safeguard the right to life. The same obligation appeared in the case of *Boudaïeva et al. v. Russia*, when the Court reiterated that the state has a positive obligation to establish a legislative and administrative framework for the purpose of protecting human rights from the consequences of a disaster.<sup>2</sup> The African Commission also recognised, in the case of *Federal Republic of Nigeria v. Ogoni Community*, that failing to implement preventive measures designed both to protect the community from pollution stemming from a particular source and to avoid displacement is a violation of rights under the African Charter. Similarly, it is increasingly recognised that it is incumbent upon states to disseminate information in the event of an industrial risk, such as the nuclear accident in Japan, and to ensure public participation in decisions about, for example, evacuation and compensation. Procedural rights – like the right to information and the right to public participation in decision making, as well as the right to access to justice – are central in preventing displacement.

## 3. Protecting the environment

A general obligation to protect the environment underlies the duty imposed on national governments to take necessary measures to prevent the occurrence of environmental risks likely to result in displacement. At the same time as governments are being forced to introduce adaptation programmes to slow down the effects of climate change and prevent displacement, the preventive principle – as well as the precautionary principle – has acquired a certain degree of authority at an international level. Numerous international laws



Nurseries and forestation programmes in Kakuma refugee camp, Kenya, were set up by GTZ and UNHCR to help prevent further degradation of the local environment.

and regulations attest to the obligation that national governments are under to implement protective measures designed to stop an environmental risk from becoming a reality and therefore resulting in displacement. This kind of obligation is increasingly linked to the concept of sustainable development, requiring better evaluation of imminent risks and reduction of repercussions for people. This approach appears clearly in the 1996 Convention to Combat Desertification, which emphasises the significance of sustainable development in combating important social problems “and those arising from migration, displacement of persons and demographic dynamics.”<sup>3</sup>

## Complementarity of systems

Although in some cases the original target for protection was not the displaced person directly, a set of interrelated and complementary normative texts has been introduced to protect the environment and to prevent and reduce disasters, as well as to ensure respect for human rights in all circumstances. In reality these three areas constitute a broad legal and operational framework which not only highlights the obligations incumbent on national governments to minimise the effects of disasters on individuals but also, more fundamentally, shows that it is the responsibility of public authorities to combat the actual causes of the displacement. It is therefore imperative not to consider the various obligations imposed by such conventions and agreements as being independent of each other. All the obligations incumbent on national governments, dispersed across different areas of law, need to be applied as a single, uniform system of protection in order to ensure that they achieve tangible results. For this to happen, there will need to be increased international cooperation across all three areas.

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1. [www.unisdr.org/we/coordinate/hfa](http://www.unisdr.org/we/coordinate/hfa)

2. See Walter Kälin and Claudine Haenni Dale ‘Disaster risk mitigation – why human rights matter’, FMR 31 [www.fmreview.org/FMRpdfs/FMR31/38-39.pdf](http://www.fmreview.org/FMRpdfs/FMR31/38-39.pdf)

3. Paragraph 9 of the Preamble to the Convention to Combat Desertification.

# Flooding in Thailand: flee, fight or float

Wan S Sophonpanich

**The severity of recent flooding in Thailand and the probability of future flooding have triggered a re-assessment of coping mechanisms employed by both the Thai population and the government.**

Flooding has not always been a cause for human displacement in Thailand. Thai vernacular architecture, culture and lifestyles were adapted to allow those living on fertile lowlands to continue with their daily lives during annual floods. However, this has changed with a larger population, the growth of urban centres and the extension of increasingly sophisticated water management systems.

In 2011, unprecedented flooding caused by tropical storm Nock-Ten affected more than three million people in 74 provinces from the end of July for over three months. By September the government's efforts were focused on diverting the water from the capital, Bangkok, to protect the nation's financial and economic centre. Faced with the approach of slow-moving masses of water, the residents of Bangkok were left to watch, speculate and make decisions as best they could based on the colossal amount of information, as well as misinformation, publicly available.

With information from diverse and varying sources, thousands of people chose to voluntarily relocate themselves ahead of the possible arrival of floodwater. Houses were closed and sealed up while cars were parked on any available higher ground or 'wrapped

up' following one of many on-line instructions. Some residents went to stay in other provinces with friends and relatives or into longer-term rentals in hotels and resorts throughout the unaffected parts of the country. Some saw it as an opportunity to take their families on holiday, but none expected the flood – or their voluntary relocation – to last as long as it did and in many cases returned to their homes and businesses to find that they had misjudged the height and strength of standing floodwater and/or had used inadequate waterproofing methods. Many others were caught by the flood and forced into emergency relocations, often to collective centres or into finding ad hoc, temporary solutions. Several of these collective centres were subsequently flooded, forcing their residents to experience multiple displacements.

For those affected who chose to stay on in flooded areas, three main categories emerged. In the first category were those still adept at living with water, who generally live in parts of Thailand that continue to face, and survive, annual floods. With simple precautions in place, and with some basic assistance and support, especially in cases where essential livelihood activities have been put on hold, they can efficiently cope with floods of up to two to three metres in height. In the second group were those who had the resources to fight off encroaching water with strategy and might. They built up a second wall, installed water pumps, sandbagged their entrances or purchased small motor-boats. In many cases, this particular group was well positioned to provide neighbourhood logistical support to others too. The last and largest category was of people who, for various social and economic reasons, decided against moving into collective centres but in turn lacked the resources either to move away or be self-sufficient at home. This group was largely dependent on external assistance and support for their overall well-being and meeting of basic needs during the emergency.

## Reflection

Of the notable proportion of the affected population choosing not to evacuate their homes at all, some acted as community patrol units in their neighbourhoods for those who decided to relocate, and as distributors of assistance to those less able to cope with the flood while remaining at home. Access to the internet and the overwhelming use of social media platforms meant that information regarding on-going flooding status, unmet needs and volunteer opportunities was regularly updated and publicly accessible. It also meant, however, that communities with little or no access to the internet were less likely to receive assistance and support in a timely manner.

The flood of 2011 also saw the emergence of a new breed of tech-savvy humanitarian volunteers and



Wan S Sophonpanich



interesting tools, such as [www.thaiflood.com](http://www.thaiflood.com) which attempted to fill the information management gap, together with its Facebook page and mobile crowd-sourcing 'app' giving GPS-located information on the flood; the much-talked-about 'infomercials' from RooSuFlood<sup>1</sup> which provided easy-to-digest and timely thematic episodes for viewers to help them make informed decisions; and the mapping service RooTanNam with its hotline for those trying to make sense of the approaching flood and its likely effect on their homes. With this expanding and diverse range of actors, coherent coordination and consistent information management were often identified as the greatest challenges.

### Looking forward

As the government and local communities prepare for inevitable future floods, all parties will need to consider both 'stay-and-fight' and 'flight' options. There are three key components for analysis, dialogue and action planning: a) community-based resilience and awareness building for disaster preparedness; b) an adaptive framework for coordinated humanitarian assistance and protection in relation to the varying scenarios; and c) capacity building with follow-up support for the diverse actors in disaster mitigation (including prevention of displacement), preparedness and response at national, provincial and local levels.

In the wake of the 2011 flooding, the general public has essentially been overloaded with 'how-to' campaigns from both the private and public sectors, providing them with 'knowledge' and 'do-it-yourself' options ranging from better ways to waterproof a home to health care during a flood and precautions needed when cleaning up a building after a long period of inundation.

In contrast, the public's knowledge and understanding of national standards, humanitarian principles and codes of good conduct are being overlooked. With the private sector and civil society actors playing leading roles in the response to the flood, it is clear that all future actors would benefit from a common understanding of the need for accountability, roles and responsibilities in an overall response, and orientation in the language and structure of both national and local coordination frameworks. During Thailand's first Collective Centre Coordination and Management training, which was designed and led by the International Organization for Migration's Thailand office in early 2012 at the request of Thailand's Department of Disaster Preparedness and Mitigation, participants reflected that coordination could be further strengthened and better understood by all those involved.

As Thailand starts the process of renewing its national contingency planning for natural disaster in 2012, the country is reflecting on and re-examining strategies that can successfully be adapted to local communities' evolving choices of response to flooding. Effective awareness raising and capacity building will play a key role in ensuring that all mandated and voluntary practitioners are efficiently and confidently prepared in the roles and responsibilities that they will have to take on during the country's natural disasters in the future.

Thailand as a whole is beginning to understand that robust resources, planning and preparedness are required if the 'stay-and-fight' option is to be successful.

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1. [www.youtube.com/roosuflood](http://www.youtube.com/roosuflood)

## The management of climate displacement

Scott Leckie

**Many of those who have fought against displacement now find themselves being advocates for resettlement and relocation. Knowing that displacements will occur as a result of climate change, the humanitarian community will need to work pre-emptively with communities identified as likely to be threatened on the land-based solutions that may be available to them.**

Place matters. And as understanding of the centrality of one's place and the tragedy inherent in forcing people from their homes has become increasingly – albeit belatedly – recognised, a movement has steadily grown focusing on measures to actively prevent people losing their homes and lands.

In recent years we have seen increasingly refined rules designed to prohibit forced displacement and evictions by states, new UN mechanisms to address these practices, engagement of NGOs in preventing displacement, a growing recognition of the imperative of ensuring enforceable security of tenure rights to dwellers, and a growing body of jurisprudence at all levels condemning forced displacement (and demanding its remedy). In short, place matters within the broader rights to which all are entitled.

But those concerned with protecting the rights of the displaced are beginning to encounter new and somewhat startling challenges as a result of the displacement caused by climate change. In the search for safety from the scourges of severe or permanent environmental change and for where people's rights – particularly their housing, land and property rights – can best be secured, we are now in the rather awkward position of actively supporting their relocation.

In many instances, humanitarians will need to help find viable land resources, engage with potential host communities and identify the livelihood and residential options required to secure for the world's climate-displaced groups the chance to re-establish a life worth living. In this manner, humanitarians can prevent open-ended and 'rights-less' displacement.



Tuvalu

### Bangladesh, Papua New Guinea, Kiribati and Tuvalu

The NGO Displacement Solutions has been working with local groups in several locations to address the displacement implications of climate change. Estimates of future climate displacement all indicate that few countries are likely to face the same scale of displacement as Bangladesh. According to some climate advocacy groups, more than six million people are already unable to return to homes that have been lost to encroaching seas and perpetual inundation. Most public statements on the issue focus more on expanding international migration options for Bangladeshis, with far less attention given to the measures required to find internal rights-based solutions for the significant number of people already displaced due to structural environmental changes. Efforts are currently underway to identify sites that would be suitable for the establishment of new settlements for at least a proportion of them, and then, once found, to acquire the sites and transform whatever title exists on the land into clear trust structures for the community. The latter are essential in order to keep the land out of the speculative frenzy which can so often accompany resettlement measures, and to ensure that communities that wish to resettle together can do so.

Most or all of the atoll dwellers from the Carteret islands of Papua New Guinea will eventually need to resettle. An offer, facilitated by an independent body, to sell some 2,800 hectares of private land to the Autonomous Government of Bougainville – on the condition that the land would be allocated to the islanders – sadly attracted neither local nor national government funds. The plot was sold to a foreign developer, who plans to use the land for tourism and possibly agriculture, for considerably less than the funds allocated within the national budget to resettle the Carteret Islanders. That land could have easily housed the entire population of the Carterets at a fraction of the price it will now take to acquire the land needed to do so. An ideal

opportunity for securing land for some of the world's first climate change displaced persons was lost.

Very few such options are available to the residents of Kiribati and Tuvalu in the Pacific. Current levels of adaptation financing acquired by these countries remain minuscule in relation to need, and an increase in available financing does not seem likely. While we believe that the long-term habitation of Micronesian Kiribati and Polynesian Tuvalu remains possible if the resources can be found for the potential technological solutions, thus avoiding displacement, we nevertheless believe that the time for prudent pragmatism has arrived.

The questions thus become: If flight from both countries is inevitable, how should this be managed, where should the citizens go and how would their status be determined in their new countries? Should the population be entitled to move en masse to another island and, if so, move where? Or should an individualist approach be promoted, with the risk that some be afforded the best migration outcomes while others are left behind to fend for themselves? Or should wealthier nations in the region be encouraged to find room to accommodate this new class of migrant?

As these four very brief examples reveal, climate change has forced those who care about displacement into the unfamiliar position of seeking solutions before displacement occurs: in effect, becoming land seekers for future displaced communities and active advocates for resettlement when remaining in place fails to be a viable option.

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# Recognising the land rights of indigenous peoples and rural communities

Rhodri C Williams

**Current global trends are putting increasing economic pressure on land and natural resources, raising the risk that new waves of internal displacement may be caused by the combined forces of climate change and large-scale investment in agriculture.**

When the Guiding Principles on Internal Displacement were adopted in 1998, some of the Principles were relatively progressive in their recommendations, choosing interpretations of international law that reflected best practice rather than universal practice at the time in order to encourage effective state responses to displacement. Among these, Principle 9 was innovative in setting out an obligation to prevent displacement by protecting the rights of those most vulnerable to the loss of their land: “States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.”

In practical terms, such protection implies state recognition and protection of the land tenure rights of indigenous peoples and rural communities. However, international law at the time only tenuously supported such measures even in the case of indigenous peoples, who most clearly fit the criterion of ‘special dependency on and attachment to their lands’. The main source of legal support for Principle 9 was the International Labour Organization’s Convention No. 169 concerning indigenous and tribal peoples, which required signatories to “respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories”.<sup>1</sup>

Since the adoption of the Guiding Principles, support in international law for indigenous peoples’ land rights has proliferated. Perhaps the most significant step was the 2007 adoption by the UN General Assembly of the Declaration on the Rights of Indigenous Peoples, which states that such peoples “shall not be forcibly removed from their lands or territories” barring their “free, prior and informed consent” as well as fair compensation and the option of return, wherever possible.<sup>2</sup>

At the regional level, the Inter-American Court of Human Rights has issued a consistent line of decisions during the 2000s requiring recognition of and respect for indigenous peoples’ land rights. In early 2010, many of these judgments were referred to by the African Commission on Human and Peoples’ Rights, when it issued a groundbreaking decision requiring Kenya to restore land taken from the Endorois people nearly forty years earlier. The terms of this decision imply that the ‘particular obligation’ to protect such groups from displacement referenced in Guiding Principle 9 may require state recognition of ownership of land in practice: “The African Commission notes that if international law were to grant access only, indigenous peoples would remain vulnerable to further violations/dispossession by the state or third parties. Ownership ensures that indigenous peoples can engage with the state and third parties as active stakeholders rather than as passive beneficiaries.”<sup>3</sup>

While it is now clear that indigenous land rights are protected by international law, what of the other groups that Guiding Principle 9 identifies as also having a ‘special dependency on and attachment to their lands’, such as minorities, peasants and pastoralists? Recent global trends have affirmed the wisdom of the approach adopted in the Guiding Principles, which focuses on vulnerability to the effects of loss of land (in terms of both livelihood and identity) rather than status (for example, as a member of an indigenous group).

Contemporary patterns of large-scale agricultural investment in developing countries (sometimes referred to as ‘global land-grabbing’) and pressure on natural resources have frequently led to the impoverishment and even displacement of rural communities, whether these have viewed themselves as indigenous peoples or not. The forces driving these developments include urbanisation, climate change and rising food prices. Given that these global trends are unlikely to abate, investment and development-related displacement may come to trigger international concern during the coming decade in a similar manner to conflict-related displacement in the 1990s and natural disasters after the 2004 Indian Ocean tsunami. Although the internal displacement discourse has yet to connect systematically with debates over land investment and development, Principle 9 provides an excellent starting point for consideration of how displacement related to such trends can be prevented or minimised.

Advocates for preventing the worst effects of large-scale agricultural investment have invoked the human right of rural communities to adequate food, including the means to produce their own food. In practice, the implementation of this right requires recognition and protection of such communities’ legal tenure of their land. This recognition is precisely the type of measure that Guiding Principle 9 asserts that states have a ‘particular obligation’ to implement in order to protect groups vulnerable to the loss of their land. However, only concerted advocacy on this point will ensure that Principle 9 has the preventive effect its drafters intended.

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1. International Labour Organization, Convention No. 169 (1989), Article 13 (1). [www.ilo.org/indigenous/Resources/Publications/WCMS\\_100897/lang-en/index.htm](http://www.ilo.org/indigenous/Resources/Publications/WCMS_100897/lang-en/index.htm)

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# Shelter interventions prevent and mitigate displacement

Davina Wadley

**In hazard-prone developing countries, shelter interventions are an important way to prevent or mitigate natural disaster-induced displacement. To be effective, however, they need to be multi-faceted and carried out with the involvement of the communities affected.**

Each year millions of people are driven from their homes by natural disasters and often remain displaced because their homes have been damaged or destroyed. The likelihood that climate change will increase the force and frequency of storms, floods and other weather-related events makes the need to improve shelter all the more urgent. Governments, donors and local and international NGOs must focus on a combination of both 'hard' and 'soft' shelter adaptation and mitigation interventions, and do so in consultation with communities.

Hard interventions refer to physical shelter structures and include strengthening their resilience through repairing or retro-fitting existing structures, and building new disaster-resilient structures. (Retro-fitting is the process of modifying an existing structure to make it more disaster-resistant. For example, the shelter can be improved by adding bracings and reinforcements to make it better able to withstand earthquakes or strong winds, or by including higher waterproof storage areas to protect belongings from flood damage.)

In some situations, repairing and retro-fitting a shelter will not prevent displacement and, instead, communities will need new, disaster-resistant homes. A good example of this is a flood-resistant shelter design implemented in 2008 by Catholic Relief Services (CRS) in consultation with communities in India's disaster-prone states of West Bengal and Orissa. The project involved the construction of 157 houses that were elevated above flood-water levels and built using locally available materials like concrete mix and chicken wire which do not wash away in flood waters. All 157 shelters withstood Cyclone Aila in May 2009.<sup>1</sup> The plinth, walls, roof and pillars remained intact, and only the mud daub (which washed away) needed to be replaced.

Repairing, retro-fitting and building new disaster-resilient shelters stop the cycle of displacement in a number of ways. Firstly, disaster-prone areas tend to experience frequent, sometimes annual, disasters. Not only does this cause recurrent displacement but it also creates a cycle of poverty that further prevents people from safeguarding against future displacement. For example, CRS found that displaced flood victims in Orissa were forced to seek substantial loans from local money lenders, which could

take a year or more to repay. However, because they were only able to afford cheap, inferior building materials to reconstruct their homes, these households often lost their homes in the next flood.<sup>2</sup> One participant in the project reported that he had lost his house 10-15 times. Secondly, small pilot programmes such as these encourage other community members to build similar shelters, and can promote greater community awareness of disaster adaptation and mitigation practices and strategies.

Soft interventions include mapping, usage zoning, erosion control, drainage, land-use assessments, investments in community shelter management and maintenance programmes, and policy and advocacy regarding land rights and tenure. For example, projects that assist local governments to map out disaster-prone areas and to implement better zoning and land-use planning can be particularly helpful in preventing displacement by discouraging communities from building homes in identified hazard-prone areas. Such projects should in principle incorporate risk mapping and disaster planning as well. Strengthening land rights and tenure can assist and empower communities to invest in protections against displacement (such as

insurance) and encourage communities to better maintain their homes. And investments in community training programmes on the management and maintenance of existing housing – such as repairing roofing and maintaining bracing and joints<sup>3</sup> – is a cost-effective strategy for making shelter more disaster-resilient.<sup>4</sup>

## Complementary interventions

If communities are not consulted or involved in the implementation of shelter interventions, such interventions are unlikely to be sustained by the community in the long term. Also, a failure to consult and involve local communities can lead to unrealistic expectations by local communities about the outcome of the shelter intervention and can undermine trust between local communities and NGOs, and hinder future access by NGOs to implement shelter interventions in disaster-prone areas.

Shelter interventions should be accompanied by disaster risk reduction measures such as early warning



A man shows how high floodwaters reached during floods in 2011 in La Mojana region in northern Colombia.

Refugees International/Garrett Bradford

systems, weather forecasting, and improving water management and flood control through flood defences and protection or restoration of wetlands, mangroves and other natural ecosystems. Disaster risk reduction measures will only protect against displacement if they are locally implemented, and if local communities have the capacity to effectively implement such measures. For example, in early 2012 Refugees International travelled to Colombia and interviewed people who were still displaced 15 months after heavy rains and flooding had forced them to flee. Colombia had a disaster risk management plan in place before the flooding started in 2010 and was considered a leader in disaster risk management in the Latin American region. But its plan failed to effectively protect the three million Colombians who were either displaced or otherwise affected by the disaster. The scale of displacement exposed serious flaws in the system – most notably the lack of local implementation and capacity.<sup>5</sup>

### Conclusions

Despite extensive research and expertise in effective shelter interventions, the biggest challenge has been the failure of governments, donors and NGOs to proactively undertake preventive shelter interventions. Most often, disaster-resistant shelter is built with humanitarian funding after a disaster and only a small fraction of donor money goes to stand-alone, proactive measures. This is not an effective use of limited resources and it does not prevent displacement in the long term. For example, shelter construction after a disaster is often focused on building the largest number of shelters

within the shortest time frame, often at the expense of community consultation, education, mapping, zoning and erosion control, all of which are essential to preventing displacement in the long term.

Given all the above, it is important that governments, donors and NGOs:

- implement both hard and soft shelter interventions
- focus on shelter interventions which involve community consultation and encourage capacity building and mobilisation of communities
- complement shelter interventions with investments in disaster risk reduction measures, such as local implementation of early warning systems
- focus in hazard-prone areas on proactive shelter interventions rather than on short-term humanitarian responses to shelter needs.

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1. <http://tinyurl.com/CRS-Shelterposter>
2. <http://tinyurl.com/CRS-FloodResistantShelter>
3. <http://tinyurl.com/UNHabitat-SaferShelter>
4. <http://tinyurl.com/CCCEP-ClimateRisk>
5. <http://tinyurl.com/RefsIntl-ColombiaFloods>

## Voluntariness to remain

Arzu Guler

In the context of prevention of further displacement or re-displacement (specifically, preventing returnee refugees becoming refugees again), two elements are particularly important: post-repatriation activities in the return destination countries to ensure the durability of the voluntary repatriation, and the living conditions in these return countries. In practice this often becomes a question of whether the returnees have the freedom of choice to remain or are 'forced' to do so in the absence of any viable alternative.

The voluntariness to remain will be determined by push factors such as security and socio-economic situation in the country of origin to which they have returned, and pull factors such as the availability of other durable solutions and respect of refugee rights in other countries in which they might consider seeking refuge.

In Afghanistan, recent data<sup>1</sup> shows that only around 20% of returnees have regular employment, only 23% of them have adequate shelter and less than 20% of them have full access to clean drinking water. Half of the returnee population have only partial access to basic health services and only half of the returnee children have full access to school. These push factors – added to the general poor security in Afghanistan – undermine the sustainability of their return. Better access to

these facilities and services would be conducive to preventing their re-displacement. And both of the most likely potential countries of asylum, Iran and Pakistan, are far less welcoming than they were in the past.

Those returning to Burundi face a lack of internal security and reduced access (in comparison with the undisplaced population) to socio-economic opportunities but their most obvious country of asylum, Tanzania, is not a welcoming prospect. The government there had insisted on repatriation for the refugees as the preferred durable solution in the 1990s, and by 1997 Tanzania considered Burundian refugees as a security threat and has taken a tough approach towards refugees, restricting their movements and limiting their access to economic activity, making it clear to Burundians that they are not welcome.

For both Afghans and Burundians there were no pull factors from potential host countries, yet plenty of push factors within their country of origin. If they could have had freedom of choice, they would probably not have remained in their countries of origin. As it is, they are 'forced' involuntarily to remain within the borders of their own land.

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1. From surveys covering one third of the assisted returnee population

# The ICRC approach in situations of pre-displacement

Veronika Talviste, Jamie A Williamson and Anne Zeidan

**The International Committee of the Red Cross prioritises the need to prevent displacement-triggering events when possible. Their experience from around the world of working in this ‘pre-displacement’ phase – preventing violations of international humanitarian law (IHL), undertaking protection activities and providing assistance – highlights the complexity of the challenges and the central role of working in partnership to serve communities at risk.**

The International Committee of the Red Cross (ICRC) aims to assess people’s needs in all stages of displacement – whether they are themselves displaced, staying behind or playing host to displaced people. A careful analysis of the process and the ability to anticipate how displacement is likely to unfold can help to determine when, where and how best – even whether – to intervene. Although displacement is often a dynamic and unstable process, and rarely unfolds as an orderly succession of phases, for purposes of assessment and analysis the ICRC considers four main phases: pre-displacement, acute displacement, protracted displacement and, finally, durable solutions. This article focuses on those in situations of pre-displacement – in particular, on preventing violations of international humanitarian law (IHL), undertaking protection activities and providing assistance.

## Preventing violations of IHL

Violations of IHL are one of the main causes of forced displacement in armed conflicts. IHL – in particular, the four Geneva Conventions of 1949 and their Additional Protocols of 1977 – seeks to protect individuals from the effects of hostilities and limit the methods of warfare used by parties to armed conflict. Of particular significance are IHL provisions prohibiting attacks and reprisals against civilians, the conduct of indiscriminate attacks, the starving of civilians as a method of warfare, and the destruction of objects indispensable to the survival of civilians.

IHL also expressly prohibits any party to an armed conflict from compelling civilians to leave their homes, and affords IDPs the same protection from the effects of hostilities and the same entitlement to assistance as the rest of the civilian population. States and any other parties to conflict are obliged to provide aid necessary for the survival of all civilians, regardless of whether they have been displaced or not, and to allow unimpeded and rapid passage for relief supplies.

Preventing violations of IHL is therefore an essential means of preventing displacements from occurring in the first place. Clearly, if IHL were better respected by warring parties, much of the displacement and suffering of internally displaced people (IDPs) could be prevented. Preventing displacement – if that gives people better security – is preferable to supporting them in displacement. Yet, as experience has shown, ensuring respect for IHL is a constant challenge.

In accordance with its mandate under the Geneva Conventions, the ICRC reminds parties of their

obligations under IHL both by making formal and informal representations about alleged incidents and by raising awareness of IHL among the relevant authorities and weapon bearers.<sup>1</sup> Moreover, the ICRC helps states incorporate into their domestic legislation their obligations under IHL relating to displacement, and works with international and regional organisations to prevent displacement in times of armed conflict and to enhance protection for IDPs.

The Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted in 2009 by the African Union, contains a number of important IHL provisions that bind both state and non-state actors. Its provisions aim not only to protect IDPs but also to help prevent forced displacement and prohibit arbitrary displacement.<sup>2</sup> The challenge now for this convention – as well for IHL in general – is to ensure that States Parties incorporate it into their own national legislation and regulation systems, and develop plans for effective implementation and monitoring.

## Protection activities

The number and variety of perspectives on displacement make it challenging to provide appropriate responses. While humanitarians tend to regard displacement as a negative phenomenon – a protection problem – and try to prevent it at any cost, those directly concerned may consider it a self-protection strategy or a means of sustaining their livelihood. Also, military forces may evacuate certain areas if they deem it necessary for military reasons or for the population’s security.

Preventing internal displacement must not impede freedom of movement and the right to seek safety. In certain situations, as a last resort, the ICRC evacuates people who are especially at risk. However, preventing problems and stepping in to provide support are not mutually exclusive activities. The ICRC may take action to help prevent the causes of internal displacement even while it works with a community in support of early-warning systems which allow them to plan ahead for possible displacement.

Identifying the right interlocutors and calibrating the messages conveyed to the authorities will largely depend on what humanitarian organisations see as the particular causes of displacement. Internal displacement resulting from direct military orders and internal displacement undertaken by a community as a preventive measure on the basis of rumours (whether true or false) or of

fear arising from past events are clearly different, requiring different responses. ICRC staff aim to use a variety of working methods, such as, for instance, persuasion of authorities combined with mobilisation of other actors, and support for the people who need it.

It is important to consider the characteristics of any particular displacement. Do people move by families or in groups? Where do they go? When do they go – what is the tipping point? Do better-off families go to the same place at the same time as poorer families? Are the movements from urban to urban or rural to urban? Knowledge of patterns is vital. Not only do such patterns provide additional information on the causes of the displacement but they also give valuable insights into whether support for early warnings or evacuations will be necessary.

In most cases, people have put in place collective or individual early-warning systems in their communities. These include the use of special means of communication to warn the community, the preparation of food or other items in case it is necessary to flee, and payments for information on possible attacks. ICRC support may be in the form of conveying lessons learned by other communities in similar situations, or assisting communities in making contingency plans, identifying threats, analysing risks and determining the displacement threshold.

Undertaking regular risk and needs assessments with communities is the key to providing snapshots of an often rapidly changing situation. Needs assessments identify the particular threats in a given context at a particular time, their causes and various perceptions of them, while risk assessments focus on the likelihood of threats in the future. Together these assessments help reveal whether affected communities see internal displacement as a threat, a consequence or cause, or a coping strategy, and they can help humanitarians anticipate developments.

Anticipating internal displacement movements is the core of the ICRC's protection approach to pre-displacement. This approach helps ensure that context-specific factors are taken into consideration, and enables the ICRC to work in parallel with communities on preventing the causes of internal displacement and providing support for better early-warning and contingency plans. Finally, it enables the ICRC to take action earlier to prevent certain possible causes of internal displacement.

### Assistance pre-displacement

Not only do people react promptly to violence and threats but they are also affected by factors other than violence and threat – factors such as poverty, the effects of climate change, scarce resources and economic crises – which can also serve as a catalyst for conflict-induced displacement. People may be forced into displacement through losing their livelihood or access to basic services, for example.

The ICRC's assistance programmes aim to ensure that access to essential health services and medical facilities is maintained, that shelter, safe water and adequate sanitation are available, that people are protected from explosive remnants of war, and that income and means of production are preserved. Achieving these aims may

require the direct involvement of ICRC staff working with, and building on, existing local capacity. It may entail encouraging the authorities and other actors to fulfill their responsibilities, or a combination of both approaches. Assessment of context and close consultation with the affected communities are essential to formulating the response.

By ensuring access to safe drinking water either directly or by supporting other providers, one of the possible causes of displacement can be removed. The same is true of health care. Livelihood support programmes help households to be self-sufficient and less vulnerable to displacement. Providing people with the means to produce their own food again, or to generate a regular income, directly improves the standard of living of households. This in turn can help people to cope with the various threats posed by an armed conflict or other violence.

In Colombia, for some 2,000 children in 14 schools, the renovation or rebuilding of schools and provision of lessons on health and hygiene meant higher attendance rates, less exposure to weapon contamination, recruitment and fighting, and better hygiene. Meanwhile, communities in the Alto Guapí area enjoyed improved water and sanitation thanks to a Colombian Red Cross/ICRC project that ended in June 2011. In this way, boosting economic security can prevent impoverishment that might lead to displacement.

Beyond the 'push factors' described above, an important cause of internal displacement in crises is the 'pull factor' created by the local concentration of services provided by humanitarian organisations – in places such as camps – at a level that is significantly higher than in the surrounding area. This is particularly common in underdeveloped regions, where a severe absence of economic opportunities and services characterises environments in which armed violence occurs. The basic standard of living, even of those who are not directly affected by violence, is often dismally low. Aid provided to people suffering the effects of violence in accordance with internationally accepted standards often far exceeds what is available to much of the resident population and, as a result, IDP camps typically create a significant pull factor.



Dissemination session on international humanitarian law for the Israeli Defense Forces, in Nablus



ICRC/Mohamed Omar Ali

While food distributions in Somalia can help relieve immediate suffering, the ICRC also provided seed and fertilizer for 240,000 farmers ahead of the planting season to give the population the means to sustain their own livelihoods.

Humanitarian aid often aims to meet needs stemming from an immediate humanitarian crisis without meeting the needs arising from a crisis of under-development. Although this extremely complex dilemma requires solutions that stretch far beyond the humanitarian sphere, actions taken to counter the ‘pull effect’ of humanitarian aid – particularly IDP camps – should nevertheless be considered within the design of a project. Although humanitarian actors tend now to be more aware of the potential pull effect of their assistance, there may be security reasons, logistical challenges or political decisions that prevent their access to affected communities. Relief centres are therefore set up in more accessible areas. However, it is essential to provide assistance as close as possible to affected populations’ region of origin and, if possible, to support them with relief that is flexible enough to facilitate return and restart economic activities. Restoring access to basic services such as water, electricity, schooling and medical care may also prevent long-term displacement.

Gaining a foothold in vulnerable communities – where disaster and conflict preparedness is often weak, and local actors have few resources – is key to preventing displacement. In its report on the implementation of its policy on internal displacement, the International Red Cross and Red Crescent Movement recognised that the various components of the Movement face several

challenges in preventing displacement in accordance with their mandate. The lack of understanding and implementation of the rules governing the protection of civilian populations, the gaps in knowledge of domestic laws and policies adapted to displacement issues, the lack of analysis of the impact of long-term discriminatory measures regarding housing, job opportunities or land tenure are all elements that complicate anticipating displacement. All components of the Movement have recognised the need to make substantial efforts to better acquaint themselves with documents such as the Movement’s policy on internal displacement which tackles these issues. The need to translate principles into operational agreements or refer to them in operational dialogue at all levels with all actors is also essential. Working together more strategically and in better partnership can only better serve communities at risk.

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1. See Olivier Bangerter, ‘Talking to armed groups’, FMR 37 [www.fmreview.org/non-state/Bangerter.html](http://www.fmreview.org/non-state/Bangerter.html)

2. See Maria Stavropoulou, ‘The Kampala Convention and protection from arbitrary displacement’, FMR 36 [www.fmreview.org/DRCongo/stavropoulou.htm](http://www.fmreview.org/DRCongo/stavropoulou.htm)



# Businesses' human rights responsibilities

Corinne Lewis

**There is no international human rights law standard that expressly prohibits businesses' arbitrary displacement of persons. Businesses do, however, have the responsibility to avoid infringements of human rights that could lead to displacement and also to take actions to remedy their human rights violations that might lead to displacement.**

It is accepted wisdom that companies can significantly contribute to alleviating poverty, creating new jobs, improving roads and sanitation, facilitating greater access to water and enhancing health services in communities. However, greater attention is now being given to the negative impacts of companies' operations on communities, including those that can lead to displacement. Pollution from factories and mining projects, for example, has deprived people of their livelihoods, water sources and access to religious and cultural sites. Even where a company is not causing damage to the environment, its mere presence can alter the social composition of the local community or create tensions among different groups and lead to displacement of individuals, families or whole communities.

More and more, throughout all their operations and regardless of the size and nature of the business, companies are being required to respect human rights. The principle of corporate respect for human rights was articulated in a document submitted in 2008 to the UN Human Rights Council by the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, Professor John Ruggie. His 'Protect, Respect and Remedy' Framework for Business and Human Rights<sup>1</sup> (the Framework) was welcomed by the Human Rights Council.

The Framework rests on three pillars. The first pillar concerns the duty of states to protect against human rights abuses committed by third parties, including business, through appropriate policies, regulation and adjudication. The second pillar is the corporate responsibility to respect human rights and the third is the need for greater access by victims of human rights violations to an effective remedy.

In 2011, businesses were provided with operational guidance on the implementation of their corporate responsibility to protect human rights in the Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework<sup>2</sup> (the Guiding Principles on B&HR), which were fully endorsed by the UN Human Rights Council. The Guiding Principles on B&HR, like the Guiding Principles on Internal Displacement, are not legally binding but are consistent with international human rights and humanitarian law standards.

The Framework and the Guiding Principles on B&HR are playing a key part in precipitating a transformation in the view of businesses' relationship to human rights. They provide a new foundation for companies to be accountable for respecting human rights and, consequently, for companies to take steps

to ensure that their actions do not lead to human rights violations that could result in displacement.

Although respect for human rights remains a voluntary obligation for companies, it is receiving wide support. The Organisation for Economic Co-operation and Development included the principle in its 2011 updated Guidelines for Multinational Enterprises.<sup>3</sup> The International Finance Corporation (part of the World Bank Group), which provides loans to businesses in developing countries to advance economic development and reduce poverty, acknowledges the responsibility of the private sector to respect human rights in the 2012 edition of its Policy on Environmental and Social Sustainability.<sup>4</sup> In October 2011 the European Commission issued a new corporate social responsibility policy that expresses the expectation that European companies will meet the responsibility to respect human rights.<sup>5</sup> Around the same time the Association of Southeast Asian Nations (ASEAN) announced that the first thematic study of its new Intergovernmental Commission on Human Rights would address the issue of business and human rights. In the private sector, industry organisations such as IPIECA (a global oil and gas industry association for environmental and social issues) and the International Council on Mining and Metals (established to improve sustainable development) promote and provide guidance on implementation of a human rights-oriented approach to their member companies. In addition, investment funds are increasingly evaluating the human rights practices of companies in which they invest.

## Steps businesses should take

While business enterprises have obligations under national laws, the corporate responsibility to respect human rights provides for a responsibility over and above national law standards. Thus, even where states are unwilling or do not have the capacity to properly regulate, supervise and hold businesses accountable for violations of national laws that protect human rights, businesses remain responsible for respecting human rights.

The Guiding Principles on B&HR establish two major steps companies should take to ensure they respect human rights. First, the business must establish a policy that articulates its responsibility to respect human rights. The policy serves to let employees, investors and the public, among others, know that the company has made a commitment to respect human rights. Even the process of creating the policy can foster a greater integration of the principle of respect for human rights into the company's day-to-day practices and operations.

The second step is the establishment of a human rights 'due diligence process' – a term borrowed and extended from a usage in the corporate world

to refer to investigation of a company to ensure that it has no hidden liabilities, including financial, legal, health and safety or environmental problems – which should include four components.

Firstly, a company must either augment its current due diligence process or create a new process to identify the people who may be affected by its activities and what rights are being or might be affected by the company's activities. The company then needs to determine what actions to take to remedy its adverse human rights impacts and to prevent or mitigate potential impacts. The company will also need to track or monitor how it responds to actual and potential human rights impacts in order to gauge and improve the effectiveness of its responses. Fourthly, and finally, the company needs to communicate information about the actions it has taken, or intends to take, regarding affected or potentially affected persons to these persons and others, such as shareholders and the public.

A company should initiate due diligence with an assessment of its own actual and potential adverse effects on human rights. The company should then evaluate whether it is involved in any adverse human rights impacts through its business relationships with, for example, suppliers of goods such as raw materials, workers' uniforms, computers and other equipment, and services such as technology assistance and security. For example, when purchasing a mined mineral for use in its manufacturing process, a company should verify its supplier's respect for human rights and thus determine whether the supplier has adverse human rights impacts, including displacement. Where the supplier does have significant human rights impacts then the company should assess whether it has leverage over the supplier to influence its actions or whether the company should terminate the relationship.

While a company should regularly undertake human rights assessments of its business activities and relationships, evaluations are particularly required when a significant change in the operating environment occurs, whether due to political or other causes, and prior to undertaking a new transaction or activity. For example, when a company plans to acquire another company it should carry out due diligence to ascertain to what extent the target company has had or is currently having adverse impacts on the human rights of individuals and communities where it operates. This information will not only reveal whether individuals were displaced by the company's operations but also whether there are current risks to human rights that might cause displacement in the future.

In conducting human rights assessments, companies need to pay particular attention to land ownership and use issues, including how the government acquired land that is leased or purchased by the company, customary land rights and community use rights. In Odisha, India, when a company enclosed forest lands within its factory premises and failed to provide access for tribal and other villagers, it was found by a high-level committee commissioned by the Ministry of Environment and Forests to have acted in contempt of the law and with the collusion

of the officials concerned. Additionally, companies need to be sensitive to ways in which their operations might create pollution, monopolise water sources and alter ecosystems and thereby provoke displacement. The Niger Delta provides a glaring example of how environmental degradation caused by oil production techniques can create population displacement.

The Guiding Principles on B&HR encourage companies to engage in dialogue with persons potentially affected in order to better understand the underlying problems and to formulate appropriate remedies. They also suggest that companies consider the creation of a grievance mechanism accessible to potentially affected persons to raise concerns and allow the company to address them before problems reach such a severity that they cause displacement. Any grievance mechanism established must be an effective one rather than a mere formality. The company in charge of the 250-sq-km Dawei deep-sea port and industrial project in southern Burma has failed to provide villagers with information and an opportunity to be consulted. The villagers therefore have had no influence on the project and the impact it will have on their lives and fear confiscation of their land, which will result in their displacement. Frequently, where local communities have not been consulted on development projects that affect them, companies encounter opposition to the project and incur expensive delays. A federal appeals court in Brazil ordered suspension of construction of the Belo Monte dam on the Xingu River in August 2012, until people whose health, quality of life and cultural patrimony would be affected had been consulted.

### Conclusion

The corporate responsibility to respect human rights does not absolve states of their responsibilities to ensure respect for human rights by third parties, including businesses. Principle 1 of the Guiding Principles on B&HR provides that states are to "take steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication". States therefore remain primarily responsible for preventing and addressing human rights abuses by businesses.

However, with the principle of businesses' duty to respect human rights set out in the Framework and elaborated upon in the Guiding Principles on B&HR, non-governmental organisations, investors and the public now have a standard that can be used to demand that businesses avoid infringing the rights of persons and thereby diminish the causes of displacement. The key ongoing challenge now facing such groups is how to enforce such standards and ensure that businesses are held accountable for their adverse human rights impacts.

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1. 'Protect, Respect and Remedy' Framework for Business and Human Rights <http://tinyurl.com/UN-BusinessHRFramework>
2. <http://tinyurl.com/UN-Guiding-Principles-on-B-HR>
3. <http://tinyurl.com/OECD-MultinationalGuidelines>
4. <http://tinyurl.com/IFC-Sustainability>
5. <http://tinyurl.com/EC-CorpSocialResp>

# Undermining development: forced eviction in Bangladesh

Kate Hoshour

**Development projects remain one of the primary causes of displacement worldwide. Evictions are commonly involuntary. The case of a proposed coalmine in Bangladesh clearly illustrates the potential for human rights violations in such projects, the need for stronger safeguard policies that uphold people's rights and prevent displacement, and the power of local protest.**

It is estimated that over 250 million people worldwide were displaced in the name of development over the past twenty years and the number of people affected is growing despite the proliferation of international human rights instruments which stipulate that forced evictions can occur only in “exceptional” circumstances in which displacement is “unavoidable” and “solely for the purpose of promoting the general welfare.” Development forced evictions involving egregious violations of fundamental human rights continue to be carried out with relative impunity. However, diverse grassroots movements worldwide are taking up a rights-based approach to challenge projects that threaten to forcibly evict them and destroy their homes and livelihoods in the name of development.

In northwest Bangladesh one such movement has successfully stalled the excavation of an immense open pit coal mine, known as the Phulbari Coal Project, for over six years. A UK-based company, Global Coal Management Resources (GCM), claims that the proposed project will “deliver substantial benefits” to the country, the people of Bangladesh and the local community. Project opponents cite contract terms that will allow the company to export 100% of the coal extracted, impose no export duties, and afford the company a nine-year tax holiday and a fixed royalty rate of just 6%.

The number of people the project would evict is disputed. GCM's draft Resettlement Plan states that it intends to displace nearly 50,000 people. In contrast, an Expert Committee commissioned by the Government of Bangladesh concluded that the project would immediately affect nearly 130,000 people and ultimately displace as many as 220,000 people, as mining operations drain their wells and irrigation canals. Bangladesh's National

Indigenous Union estimates that the mine would evict and/or impoverish 50,000 indigenous people belonging to 23 different tribal groups.

The project would destroy 14,660 acres, 80% of which is fertile agricultural land. Due to its elevation and location, Phulbari is one of the few agricultural regions that is protected from the flooding that regularly wipes out crops elsewhere in Bangladesh.

Although 80% of all households targeted for eviction are subsistence farmers and indigenous people with land-based livelihoods, the Resettlement Plan states that their agricultural lands will not be replaced: “most households,” it notes, “will become landless.” The failure to provide replacement lands violates the UN Basic Principles and Guidelines on Development-based Evictions and Displacement<sup>1</sup> which require land-for-land compensation, and shows a reckless disregard for the large body of research showing that reliance on cash compensation alone impoverishes people who formerly had land-based livelihoods.



Local people against the Phulbari Coal Project on a seven-day, 250-mile protest march, October 2010.

Despite existing water shortages, GCM plans to drain up to 800 million litres of water daily in an effort to maintain dry conditions within the mine. Expected impacts include lowering the water table by 15 to 25 metres for more than six miles beyond the mine's footprint, threatening 220,000 people's access to water. Finally, plans to transport coal through the Sundarbans Forest Reserve – the world's single largest remaining mangrove forest and a UNESCO-protected World Heritage site – threaten an ecosystem that is a vital source of food and livelihoods for nearby communities and supports at least 58 rare and threatened species.

Massive protests against the Phulbari Coal Project began in August 2006. After paramilitary troops opened fire on some 70,000 demonstrators, killing three people and wounding over 100, outraged citizens held a four-day protest strike. GCM was forced to suspend its operations and its personnel fled the country under armed escort after protestors torched the homes of people believed to be associated with or supporting the company.

The grassroots struggle to stop the Phulbari Coal Project has succeeded in blocking the mine for over six years. In October 2011 tens of thousands of people joined a 250-mile protest march from the capital city of Dhaka to Phulbari. That same month, opponents of the mine took their concerns to the UN Special Rapporteurs<sup>2</sup> who took coordinated action in early 2012, which included a joint UN press release calling for an immediate halt to the project on the grounds that it threatens fundamental human rights, including rights to housing, water, food and freedom from extreme poverty. Efforts to reduce

poverty, the Special Rapporteurs noted, are more likely to succeed when national development strategies incorporate and uphold human rights-based principles.

Civil society organisations, researchers, and development practitioners can contribute to advancing a rights-based approach to halting avoidable displacement by:

- challenging development models that consider the eviction of vulnerable people to be consistent with progress, and developing clear guidelines for debunking claims to serve public interest
- calling on institutions that bankroll destructive projects to create stronger safeguard policies that fulfill their obligations to avoid displacement, considering projects only when they meet the criteria specified in the UN Basic Principles and Guidelines on Development-based Eviction and Displacement, as demonstrated by a robust assessment of options that avoid displacement
- supporting locally defined development aims that value people's connection to their homes, lands and communities and uphold their rights.

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1. Recognised by the UN Human Rights Council in December 2007 [www2.ohchr.org/english/issues/housing/docs/guidelines\\_en.pdf](http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf)

2. The office of the UNSR on the right to food took the lead in coordinating work on this. Other UNSRs participating were those on rights to: water and sanitation; freedom from extreme poverty; adequate housing; freedom of opinion and expression; freedom of peaceful assembly and association; and Indigenous Peoples.

## The UN Security Council and prevention of displacement

Sanjula Weerasinghe and Elizabeth Ferris

**Respecting the prohibitions against forced and arbitrary displacement could significantly reduce the risk of, or prevent, displacement in situations of armed conflict, as could insisting on accountability for violations of these prohibitions that amount to war crimes or crimes against humanity. The UN Security Council has only partially addressed these issues.**

During the 12-year period from 1999 (when the UN Security Council first addressed the issue of protection of civilians) until 2010, the Council adopted 747 resolutions, of which at least 142 referenced displacement with almost one in five mentioning internal displacement. But there were major inconsistencies in the way in which displacement was considered in specific country situations. While half of all resolutions on Sudan, for example, make reference to internal displacement, less than 3% of resolutions on Liberia mention displacement even though virtually all of Liberia's 2.8 million people are estimated to have fled their homes at least once during the country's 14 years of conflict. Some 90% of the Council's 22 resolutions on Georgia refer to displacement while only one of the 32 Council resolutions on Somalia references displacement.

Similar inconsistencies were found in the way the Council dealt with solutions to internal displacement. Over 100 of the 142 resolutions mentioning displacement refer implicitly to some aspect of durable solutions. But among the three solutions for IDPs – return, local integration and settlement elsewhere – return has attracted far and away the most interest; only two resolutions mention local integration and six refer to resettlement.

Given the Security Council's preoccupation with peace and security, one might reasonably have expected it to devote greater attention to prevention of displacement than to operational issues around humanitarian assistance, and indeed preventing displacement is a key element of protecting civilians which has been a laudable focus of Security Council action for the past twelve years.

And yet only 7 of the 142 Security Council resolutions referencing displacement refer to the prohibition against forced displacement – in contrast to 40 referencing humanitarian assistance and access. As forced displacement has been central to many conflicts, the fact that only four of the Security Council’s country-specific resolutions refer to forced displacement is striking.

Examples of resolutions in which the Security Council has addressed the prevention of displacement and which might provide guidance for future resolutions include:

- S/RES/1674 (2006) [Protection of Civilians in Armed Conflict] (para.5): “Reaffirms also its condemnation in the strongest terms of all acts of violence or abuses committed against civilians in situations of armed conflict in violation of applicable international obligations with respect in particular to ... (vi) forced displacement, ... and demands that all parties put an end to such practices...”
- S/RES/1674 (2006) [Protection of Civilians in Armed Conflict] (para.12): “Recalls the prohibition of the forcible displacement of civilians in situations of armed conflict under circumstances that are in violation of parties’ obligations under international humanitarian law...”

It is very significant that S/RES/1807 (2008) [Democratic Republic of the Congo] talks of the application of targeted sanctions against those involved in forced displacement:

- “... the provisions ... shall apply to ...[i]ndividuals operating in the Democratic Republic of the Congo and committing serious violations of international law involving the targeting of children or women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement...”

In addition in 2012 the UN Secretary-General reported to the Security Council on protection of civilians, offering it some recommendations on preventing displacement, including the possibility of referring situations to the International Criminal Court.

The Security Council could be both more energetic and more consistent in addressing the issue of preventing displacement and in the future should, on a case-by-case basis, and as appropriate, consider emphasising the following issues in its resolutions:

- reaffirm the prohibitions against forced and arbitrary displacement
- condemn violations of the prohibitions against forced and arbitrary displacement
- call for strict compliance by parties to armed conflict with:
  - the prohibitions against forced and arbitrary displacement under international law
  - the right to freedom of movement and residence of IDPs<sup>1</sup>

- call on parties to armed conflict to take appropriate measures to respect and ensure respect for the prohibitions against forced and arbitrary displacement by enforcing appropriate military discipline, upholding command responsibility, and training troops on applicable international humanitarian law and human rights law as well as the Guiding Principles on Internal Displacement and the Kampala Convention (when in force)<sup>2</sup>, as relevant
- request peacekeeping and other UN missions to provide training to armed forces on international law relevant to forced and arbitrary displacement as well as the Guiding Principles on Internal Displacement and the Kampala Convention (when in force), as relevant
- urge states to establish legal measures and accountability mechanisms to prosecute those responsible for forced and arbitrary displacement in violation of applicable international law
- impose sanctions on persons violating the prohibitions against forced and arbitrary displacement
- request that reports of the Secretary-General on country-specific situations include information regarding the violation of the prohibitions against forced and arbitrary displacement.

While the UN Security Council’s recognition of the importance of internal displacement over the last 12 years is laudable (if inconsistent), its limited attention to preventing displacement is a missed opportunity. By its own acknowledgement, the large-scale human suffering caused by displacement has implications for both future stability and further conflict. The Security Council should consistently remind states of their obligations to take all necessary measures to prevent displacement and respond to the immediate needs of, and find solutions for, those who are already displaced. More concerted and timely action by the Security Council in this regard would not only be welcome but could be considered a moral imperative.

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This article is based on a study by the Brookings-LSE Project on Internal Displacement published in 2011.<sup>3</sup> In particular, the study analysed Security Council resolutions in terms of prevention of displacement, protection during displacement, humanitarian access and assistance, and durable solutions to displacement.

1. Principle 6 of the Guiding Principles on Internal Displacement.

2. [www.internal-displacement.org/kampala-convention](http://www.internal-displacement.org/kampala-convention)

3. Sanjula Weerasinghe and Elizabeth Ferris, *Security Council, Internal Displacement and Protection: Recommendations for Strengthening Action through Resolutions*, [www.brookings.edu/research/reports/2011/09/security-council-resolutions-ferris](http://www.brookings.edu/research/reports/2011/09/security-council-resolutions-ferris)

# Preventing re-displacement through genuine reintegration in Burundi

Lucy Hovil

**Displacement is often part of a cyclical process of conflict and displacement. Preventing displacement, therefore, is not only about preventing new displacement but about ensuring that people do not get re-displaced.**

As soon as a conflict is resolved enough to allow for return (whether voluntary or coerced), and the return package has been handed over to those who have signed up for the repatriation programme, the crisis is deemed to be over, funding is re-directed (i.e. reduced) and reintegration falls off the radar. The problem with this process is that where inadequate attention is paid to the extremely complex, fragile and fraught process of reintegration, the possibility for renewed tensions, conflict and eventually re-displacement increases.

Burundi is a good example of this. The country is undergoing the long and painful task of reconstruction after decades of violence, political turmoil and displacement. Although several tens of thousands remain in exile, more than half a million displaced Burundians have returned over the past few years, some after more than three decades in exile. Their return is seen as a success by external actors, including UNHCR, which has described it as “one of the most successful operations on the African continent”.<sup>1</sup>

The fact that so many people have been able to return is extremely encouraging and symbolises optimism for the country’s future. But while much has gone right with the return process, there have been some serious shortcomings with the process. These shortcomings are evidenced both within Burundi and in neighbouring countries, in particular Tanzania, where thousands of refugees continue to resist return. The effective reintegration of those who have been displaced is probably the greatest challenge facing the country, and a priority if future displacement is to be avoided.

Reintegration is notoriously hard to quantify. However, it is clear that a key measure of sustainable return is the ability for all Burundians to genuinely and meaningfully exercise their rights as citizens, especially the ability of those who have been living in exile to properly reintegrate into Burundian society.

Nowhere is the evidence of the exercising of rights more evident than in the ability for returnees to gain equitable access to land. In Burundi, the vast majority of the population makes their livelihoods from subsistence agricultural production. It is not surprising, therefore, that the dominant issue in the return process is the ability for returnees to reclaim land – land that has been used by those who did not flee for the past decades. Land, in this context, relates to issues of justice, reconciliation and sustainable peace as well as livelihood. And this is where a key shortcoming in the process has become evident: land has been treated primarily as an economic commodity that can be resolved with humanitarian assistance rather than a strongly political one. Of course, it

is an economic resource – people need land to grow crops to feed their families – but for returnees who have been alienated from the state for decades, access to land is an important indicator of reintegration and the reinstatement of active citizenship and inclusion. The realisation of citizenship for returnees, therefore, is centrally contingent upon fair and effective repossession of land – and specifically family land – signifying an end to the causes of flight that broke their citizenship bond in the first place.

Yet to date, many have not been able to reclaim their land, especially in cases where it is occupied and the current inhabitants are unwilling to leave. Where returnees have attempted to make claims to their land through judicial institutions they have often found that the ruling is not in their favour. Even when it is, they fear for their safety from retaliation by the current occupants, particularly when the land occupant is powerful or influential. For those who cannot reclaim their land, there are limited options with regard to accessing alternative land, and many have been relocated into what are called ‘peace villages’; these villages incorporate returnees with other vulnerable groups in need of land, allotting them space to build homes and farm. Although this is generally seen as an improvement over the dire conditions in which people had been living in transit camps, they are deeply unpopular. Serious questions remain over whether, being set apart and isolated, they will in practice offer people adequate opportunities for reintegration into the social fabric of Burundi society and persuade its remaining citizens still living in exile to return home.

While land is not the only challenge, equitable land distribution in Burundi is certainly critical to the success of current peace-building process and an important indicator of the potential for lasting peace. By this measure, to view return and reintegration in Burundi as a success would be to ignore the serious problems that are brewing. Tens of thousands of Burundian refugees living in Mtabila camp in neighbouring Tanzania continue to resist repatriation despite appalling living conditions and the withdrawal of many services within the camp, raising serious questions about the assumed success of the returns process.

In particular, for as long as access to land is seen as primarily a humanitarian rather than political process, there is a very real possibility that mass return would destabilise the country. Instead, it is vital that government agencies, policymakers and humanitarian actors pay adequate attention to the need to address the current demands on land in a way that is simultaneously equitable and feasible. They need to ensure that adequate time and resources are invested in a complex and fragile reintegration process. Preventing displacement in this

context, therefore, is about ensuring that reintegration is grounded in a broader framework of national reconstruction and about ending previous displacement in such a way as to break cycles of conflict and displacement.

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This article draws on research conducted in Burundi in 2009. See International Refugee Rights Initiative, Social Science Research Council and REMA Ministries “*Two People Can’t Share the Same Pair of Shoes*”: *Citizenship, Land and the Return of Refugees to Burundi*, Citizenship and Displacement in the Great Lakes Region Working Paper No 2, November 2009.<sup>2</sup>

1. [www.unhcr.org/494b7e302.html](http://www.unhcr.org/494b7e302.html)

2. <http://tinyurl.com/IRR-REMABurundianreturn>

## Post-conflict land insecurity threatens re-displacement in northern Uganda

Levis Onegi

**For many in northern Uganda, access to land and property remains an unresolved issue that threatens peace and sustainable returns.**

Peace negotiations between the Government of Uganda and the Lord’s Resistance Army (LRA) ushered in relative peace in northern Uganda from 2008. Despite the fact that the LRA leader Joseph Kony has not signed the Final Peace Agreement, improved security has meant that many internally displaced persons (IDPs) can now access their farm land and begin rebuilding their homes. The situation has, however, remained fragile for some returnees, as well as for vulnerable populations such as the elderly, unaccompanied minors, widows and disabled persons whose needs and rights have been neglected.

While humanitarian aid programmes are being replaced by recovery and development programmes, for some formerly displaced populations in Acholi and Langu sub-regions the benefits of return are still elusive. With rampant land-grabbing by politicians, civil servants, the business community and local and national

investors vying for the ‘spoils of war’, the impact of land insecurity threatens re-displacement of the returnees.

Before the LRA insurgency, land conflicts were infrequent in northern Uganda; where they occurred, they tended to be minor tussles between individuals fighting over a plot of land or disputing a boundary. As the LRA insurgency progressed to a more turbulent stage from 1996 to early 2000, the Government of Uganda forced thousands of peoples to move into IDP camps – also known as ‘protected villages’ – on the grounds of protecting lives and property from LRA attacks. The impact of the government’s forced encampment policy resulted in huge chunks of arable land remaining largely vacant and unoccupied – and therefore vulnerable to occupation and land-grabbing.

Recurrences of conflict and re-displacement are becoming a common feature of the Great Lakes region. The land



A farmer winnows her bean harvest in Nwoya district, Uganda.

conflict in northern Uganda calls for a re-examination of the management of the entire return process, particularly considering how increased attention to fundamental aspects relating to security, such as land ownership, could reduce the potential for new or repeated displacement. The government and all organisations involved in return need to consider questions such as: What is the impact of land-related conflicts on the potential for a return to conflict? What implication may land-related conflict have for a re-displacement of returnees? Who is responsible for ensuring the safety of returnees as well as the return of their property and land?

Article 11, Clause 1 of The African Union Convention for Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention, 2009), under Obligations of States Parties relating to Sustainable Return, Local Integration or Relocation, requires States Parties to “seek lasting solutions to the problem of displacement by promoting and creating satisfactory conditions for voluntary return, local integration or relocation on a sustainable basis and circumstances of safety and dignity.”<sup>1</sup> However, since the start of the transition to peace, parts of northern Uganda have experienced considerable loss of life through violence, and much destruction of homes and property; property has also been lost through evictions by government agencies, private individuals and investors. This has inevitably undermined confidence and trust – much-needed ingredients in the post-conflict recovery

process – among the returnees. In essence, the neglect of land and property issues has threatened the central tenet of post-conflict recovery and reconstruction processes that it is necessary to nurture an environment conducive to reintegration and development in safety.

It is vital that post-conflict land reforms focus attention on reducing tensions and conflicts and promote socially and economically productive land uses; this includes focusing on issues of land access, land ownership and land use so as to help prevent future re-displacement. Most importantly, the displaced populations themselves should be involved in all aspects of the return processes.

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[www.beyondjuba.org/BJP1/working\\_papers/BJP.WP2.pdf](http://www.beyondjuba.org/BJP1/working_papers/BJP.WP2.pdf)  
*UNDP Returning to uncertainty: Addressing vulnerabilities in northern Uganda*  
[www.fao.no/nyhet/return2uncertainty.pdf](http://www.fao.no/nyhet/return2uncertainty.pdf)

1. [www.unhcr.org/refworld/docid/4ae572d82.html](http://www.unhcr.org/refworld/docid/4ae572d82.html)

## Education as an essential component of prevention of youth re-displacement

Marina L Anselme and Barbara Zeus

Given that education is seen as a factor that keeps refugees in camps or host communities rather than encouraging them to go back home, it is ironic that it is not systematically included as part of return. Our experience in Burundi is that access to education is not only a right but also essential to the sustainability of return for younger people and thus to preventing their re-displacement. Consistent access to appropriate education underpins social reintegration of young returnees and thus the prevention of displacement in the longer term. Education should thus be a core part of repatriation plans.

Lack of structural planning for young people especially in terms of continuity of education once they crossed back to Burundi from Tanzania has had a detrimental effect on their ability to integrate into schools there. In Tanzania secondary school enrolment was 23% lower than for those who remained in Burundi. Paradoxically after their return the level was 55% lower than for those who had never left.<sup>1</sup>

We found that the difficulties faced by young returnees included poverty, leading to families' inability to pay for their children's education-related costs (uniforms, books, etc); limited capacity of the Burundian education system to absorb the returnees in the public schools; lack of school certificates showing their level of educational attainment in exile, which prevented them from being admitted to Burundian schools; unfamiliarity with the language of instruction (language instruction not only

helps young people in their achievements at school but also in attaining a sense of belonging and shared common identity); and the need to catch up with subjects that were missing from the curriculum in Tanzania.

Young returnees interviewed who were not going to school found it harder to reintegrate in general, to the point where they would recommend to refugees still in Mtabila, the one remaining camp for Burundian refugees in Tanzania, to remain in Tanzania while those who were going to school had more solid plans for their own future and easily envision staying in their home country. On the whole girls found it harder to integrate than boys, mostly because of the hostile school environment, they reported.

Finally, to ensure the successful repatriation of young people, cross-border commitment and continuity of support are needed for education activities that are shown to contribute to social integration, peace, stability, poverty reduction and therefore permanent return.

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1. Based on an impact study conducted by the RET in Burundi between September 2011 and March 2012. For more details, please contact the RET.



# The role of women defenders of human rights in Colombia

Juanita Candamil and Claudia María Mejía Duque

**Women in Colombia are increasingly being attacked because of their efforts to defend human rights and to bring an end to the conflict and displacement in their country.**

Violence against women defenders of human rights is rarely recognised for what it really is: part of a deliberate, calculated strategy to force them to desist from their attempts to change society, save lives and receive justice. Recent reports show there has been a serious increase in the incidence of aggression against the movement for the defence of human rights in Colombia and in particular against women defenders of human rights.<sup>1</sup> These attacks are aimed at silencing women defenders and as such they have a profound impact on perpetuation of the conflict – and prolonging displacement, given that the women's movement has become a key player in effective reestablishment of the rights of the displaced population in Colombia, including the right to restitution of their lands.

In their work, women defenders have experienced sexual violence, attacks or threats of attacks on themselves and also on their children, families and communities. These women also commonly experience the disintegration of their family unit, open reproaches and social stigmatisation for the substitution of their role as mother with that of protector of wider human rights.

However, and in spite of this, in Colombia it is often women who take the lead in demanding truth, justice and reparations for victims of the armed conflict, including the restitution of their lands. The internal armed conflict has forcibly displaced more than 5.2 million people throughout the country, 80% of them women and children, submitting this population to a profound human rights crisis. Therefore, given the failings of the state in terms of an effective response to the crisis, the women who have suffered forced displacement in Colombia have – with the support of women's organisations dedicated to the defence of their human rights – united and fought strongly to demand the effective reestablishment of their rights and the restitution of their lands, fully backed by the necessary guarantees.

This growing strength has been matched by a correlating increase in the risk of attempts on their lives, integrity, security and freedom by armed groups and the paramilitary groups in particular – groups who do not wish the women to make demands of the state for the reestablishment of their rights, the pursuit of truth and justice, and the restitution of their lands. The role of these women leaders is absolutely essential to this process – which is why they are being attacked.

It is worth bearing in mind that peace processes promoted by the government could well generate an upsurge of human rights violations in the country. The armed groups who operate beyond the law and who have broadly and systematically violated the human rights of the civilian population will want to weaken the hand of the victims

in obtaining commitments for reparations in the peace process, particularly in societies such as Colombia where civil society has the capacity to influence outcomes in political negotiations and where, as here, conflict and displacement have created an environment conducive to or forcing women's empowerment. To effectively prevent displacement, peace outcomes must be sustainable, responding not only to military demands but to the aspirations of those who have suffered violence and displacement. And to do this the negotiating capacity and power of civil society, including women groups and IDP associations, need to be protected and strengthened.

In 2004, Colombia's Constitutional Court examined the particular impact of war and forced displacement on women, and concluded that the violence committed as part of the civil conflict within Colombia had a differential and more acute impact on women due to their gender. With the number of men killed in conflict, family roles have had to change, and women – many of whom have also suffered violence, including sexual and gender-based violence – have had to assume new domestic, economic and social roles. As part of this, more women have assumed leadership in IDP organisations and in human rights movements, demanding truth, justice and reparation for the victims of conflict.

The process of strengthening women defenders of human rights allows them to understand that the defence of human rights is a right in itself, protected by international instruments that are binding for Colombia; and that the state must ensure the necessary guarantees for exercising the defence of human rights – which implies both prompt and effective investigations, and effective actions in dismantling the armed agents of conflict. Currently, however, the risk to defenders continues to increase, no advances are being made in police and legal investigations, and paramilitary action persists in such a way that women defenders of human rights continue to be persecuted.

Effective and appropriate protection for women defenders of human rights would contribute not only to strengthening the movement of women defenders but also to strengthening democracy, and to a state based on the rule of law. It would contribute to advancing the processes of peace and reconciliation in such a way that they become sustainable; and by re-establishing human rights and truth, justice and reparation, it would contribute to preventing conflict and the displacement that accompanies it.

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1. Corporación Sisma Mujer, 'Las defensoras de DDHH y su lucha por la Justicia en Colombia', Revista Resistencia, September 2011

# Property restitution in Colombia

Eduardo Medina

**Fragility of land tenure and property rights has both caused and exacerbated displacement in Colombia. In response, the government has established a legal framework to address the problem and, ultimately, to prevent further displacement. The rebuilding of community relationships and institutional trust are central to the success of this approach.**

The history of land dispossession and displacement in Colombia is rooted in various causes and has resulted in one of the largest displaced populations in the world. First, landowners' rights have been weakened by the sale of land whereby peasants and rural communities are put under duress – by force, misconduct or misinformation – to sell property titles and vacate their land. Land sales conducted in this manner rarely correspond to real market value. A second, recurrent form of land dispossession has been the abandonment of land by landowners as a result of conflict and its subsequent occupation. A third form of land dispossession has arisen through illegal forced transfers of property titles, with individuals using their government positions, and acting in complicity with local non-state armed forces, to subvert the protection offered by local government bodies. Some of these corrupt transfers have occurred through judicial or procedural fraud.<sup>1</sup>

The effects of land grabbing, occupation and forced displacement have been significant. The Colombian National Planning Department estimates that forced displacement has affected 700,000 households (more than three million people). More than 3,200,000 hectares – 5% of Colombia's agricultural land – have been taken by land grabbing or abandonment by persons forced out of the area.<sup>2</sup>

## Government measures to prevent dispossession and displacement

The Colombian government has developed a set of policies to facilitate land restitution and strengthen landowners' rights, and thereby to prevent further displacement and enable the return of those who have been forced to leave their homes. Since 2003, the government has implemented the Land Protection and Displaced Population Legacy Project, aimed at helping to diminish the risk of impoverishment of displaced populations.<sup>3</sup> The Project has worked in 21 regions of Colombia to guarantee the full exercise of property rights, establishing asset protection measures. It has also promoted the formalisation of land rights, including the formal recognition of rights for indigenous and Afro-Colombian communities, and has implemented management processes for land restitution, both in situations of dispossession of land and where people have been forced by violence to abandon their land. The Project has supported land-titling processes in nine regions of the country, producing over one thousand titles giving formal rights to occupant farmers, some of whom had already been displaced while others were at a high risk of displacement.

The current government, under President Santos, has included a land restitution policy in its 2010-14 National Development Plan. This policy reasserts the rights of displaced populations, focuses on access to justice for

those who have lost their property due to armed violence, and lays the groundwork for addressing other issues of human rights violations and transitional justice.

Under Colombia's Victims and Land Restitution Law 1448 of 2011, land restitution has been integral to the strategy to proactively prevent mass forced displacement. The Santos government hopes to settle 160,000 claims for restitution in the period of 2011-14 by: 1) promoting landowner rights and resolving land disputes; 2) discouraging land grabbing and occupation in Colombian rural society; and 3) providing a mechanism of redress for persons forcibly displaced and dispossessed of their land. Some of the steps taken to achieve this include:

- no longer placing the burden of proving previous ownership on the dispossessed person but placing the burden of proof instead on the new 'owner'
- establishing a registry to investigate and declare which land was dispossessed and abandoned as a result of force
- introducing a new two-part procedure to provide restitution of dispossessed land, consisting of a special administrative unit dedicated to land restitution and a judicial body comprising specialists in land issues
- establishing a compensation programme, providing in-kind restitution of land when applicable and monetary compensation when land is not directly available (drawing on a fund also established by this law)
- gradually and progressively implementing the law's programmes, with each of 364 municipalities prioritised according to the extent of land dispossession.

Various donors including USAID, the UN and agencies such as IOM have been involved in supporting the implementation of the land restitution policy by providing technical and financial support; IOM has structured pilot projects and helped strengthen capacity within those institutions implementing the Policy.

Ultimately, the Victims and Land Restitution Law provides a judicial framework for stabilising land ownership and preventing further displacement. Beyond the obvious benefits of identifying and assisting where land dispossession has occurred and providing the basis for restitution, these programmes have reinvigorated a sense of community trust and sent out – across the country – the message that the government will not tolerate displacement caused by land dispossession and occupation. Implemented through a community-based approach, these programmes have gone beyond administrative and judicial assistance to cultural healing.



Beneficiary signs an agreement allowing him to receive materials in order to establish a cocoa and plantain productive unit, as part of a project addressed towards forced displacement prevention in Currillo, Caquetá.

The Law was the result of a national consensus among various stakeholders such as the government, Congress, political parties, human rights organisations and victims' organisations. It promotes a model that aims to break the cycle of victimisation and start a process of empowerment instead. The solutions envisioned under the law include promoting the active participation of victims in the design and implementation of the law, accompanying and assisting victims in establishing livelihoods, and supporting victim networks and initiatives. According to the law, respect for the dignity of the victims, their aspirations and stories should prevail in the process of participation – which in turn contributes to empowerment and confidence building. While the process is still

unfolding, the willingness to allow wide and equal participation of community members is a good platform for re-building community trust. Reconciliation among community members and public faith in the process will require continued engagement of all stakeholders.

A significant challenge for the implementation of this project is the sheer volume of claims. As of November 2012, the government has witnessed more than 25,000 claims for a total of over two million hectares of land. There is little doubt that this process will require a significant amount of dedicated resources over a long period of time. Nevertheless, progress is slowly visible. In the community of Manpujan, for example, people are beginning to feel empowered to act on their claims of ownership and are contesting more than 2,000 prior judicial decisions against their land ownership claims; this has led so far to the restitution of fourteen properties. These outcomes are small but significant victories for people dispossessed of their land.

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1. Ministry of Agriculture and Rural Development. Consultation Program in Land Reparations (CONRET). Bogotá DC, December 2008.
2. National Department of Planning, Ministry of Agriculture and Rural Development, Ministry of the Interior and Justice, Presidential Agency for Social Action and International Cooperation. Policy of Land and Territory for the Victim Population of Forced Displacement, at risk of Forced Displacement and Dispossession. Bogotá, 30 October 2009.
3. The Project is sponsored by the World Bank, the Colombian Department for Social Prosperity (Social Action), the Colombian Ministry of Agriculture and Rural Development, the European Commission, UNHCR and USAID, with technical and administrative assistance from IOM.

## Natural disasters and indigenous displacement in Bolivia

Ludvik Girard

In Bolivia not only have recent natural disasters been the worst ever but structural patterns related to the rural agricultural sector and climate change have combined to make climate-related displacement significant. The three most affected areas are the east where the weather cycles in the Amazon basin have been profoundly disturbed, the south where there has been increasing desertification, and the north where the temperatures in the Andes mountains have been undergoing rapid change. Bolivia's large indigenous population (proportionally the highest in any Latin American country at 62%) is largely dependent on agriculture and therefore particularly vulnerable to the effects of climate change.

In all of these regions, agricultural production has been increasingly changing in character and in many cases these changes are undermining the capacity for local subsistence. Traditional methods of agricultural activity are based on traditional knowledge that is not adapted to the new climatic cycles. In addition these communities tend to be remote and with less access to political levers. The result is that growing numbers of people are forced to migrate, generally into towns and cities.

On the positive side, the Bolivian government has a commitment to the rights of indigenous people, as well as an awareness of the role of ecological issues. This

commitment was confirmed by the World People's Conference on Climate Change and Rights of Mother Earth in April 2010<sup>1</sup> which produced concrete proposals for political action and international agreements.

To deal with the very real problems of indigenous migration, a sociological and technical enquiry is needed, seeking feasible solutions and feeding into public debates. Such an investigation must be participative and focus on migration as an adaptive strategy. It should seek to identify those aspects of traditional knowledge that might support efforts to overcome technical difficulties, and should systematically profile the resilience and limitations of each indigenous community.

If it does this, it will shed light on an aspect of risk management that receives relatively little attention, and potentially help prevent the displacement of indigenous people as a result of climate change.

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1. Conferencia Mundial de Pueblos sobre el Cambio Climático y los Derechos de la Madre Tierra <http://pwccc.wordpress.com/>

# Attempts to prevent displacement in the occupied Palestinian territories

Karim Khalil

**Prevention has become a strategy increasingly adopted by the humanitarian community in addressing forced displacement in the occupied Palestinian territories, as well as responding to immediate emergency needs for families displaced or at risk of displacement.**

While strategies for the prevention of forced displacement gain value in the humanitarian community in addressing displacement situations, Israeli actions and policies in the occupied Palestinian territories (oPt) continue to directly and indirectly lead to the forced displacement of Palestinians. Such policies are applied with a view to acquire land, redefine demographic boundaries and divest Palestinians of ownership. UN experts and NGOs alike have condemned repeated and recurrent Israeli actions that both directly and indirectly, have caused forced displacement in the oPt.

Although there are no comprehensive figures available on displaced in the oPt, figures compiled from local and international NGOs and the UN indicate that since 1967, more than 270,000 people have been displaced across the oPt, including those temporarily displaced, with more than half of all displacements occurring in the last five years. In the Gaza Strip, 15,700 people remain displaced as a consequence of the Israeli military operation 'Cast Lead' that lasted from December 2008 to January 2009.

In 2009, the Representative of the UN Secretary General on the Human Rights of IDPs listed the main causes of internal displacement in the oPt as: incursions and military clearing operations; evictions; land appropriations; house demolitions; building of settlements and related infrastructure; the construction of the so-called 'separation fence' or 'Wall'; violence by settlers; and revoking of residency rights in East Jerusalem.<sup>1</sup>

Alongside those displaced, entire communities in the Jordan valley in the West Bank as well as an estimated 93,000 in East Jerusalem are thought to be at risk of displacement. Several Palestinian communities are among the most at-risk: rural communities in the Jordan Valley; communities close to or affected by the Wall and Israeli infrastructure and settlements; residents of East Jerusalem living in places subject to evacuation or house demolition orders; Palestinians at risk of having their residency revoked or family reunification rights restricted; and residents in Gaza living within or in proximity to the buffer zone along the border with Israel and subject to Israeli incursions or extension of the buffer zone.

## Resilience and vulnerability

People's desire to remain is found in everyday actions in urban neighbourhoods and rural communities across the territories. Palestinian communities and individual households have sought to prevent or mitigate the effects of Israeli policies that lead to displacement. The tenacity of people who remain – reflected in the concept of *sumud*, or steadfastness – is explained by the desire to retain one's home, one's land, and

equally not replicate the fate of Palestinian refugees whose current situation is a stark reminder of the consequences of displacement and dispossession.

For many the choice to remain is also defined not only by a desire to retain one's land but also by the lack of assets, property or livelihoods, which limits the ability of families to move elsewhere. In the context of the oPt, for most there are few alternatives, if any.

Communities have strived to develop despite attempts to dislodge them, sometimes mobilising limited resources to construct infrastructure that is ultimately at risk of demolition. Scores of villages and neighbourhoods in East Jerusalem have invested time and resources to develop alternative development plans for their communities. These are submitted to the Israeli authorities but rarely have any of these plans been approved. Development plans throughout the oPt have, in effect, been frozen for over 40 years.

Strategies to prevent displacement in the oPt are in that sense enmeshed in the fabric of daily life. Within this, Palestinian civil society – through individual acts, social mobilisation and activism – has been at the forefront of attempts to prevent displacement. Throughout the West Bank and East Jerusalem protests are held by Palestinian communities, as well as by Palestinian, Israeli and international activists, against Israeli policies. Thousands of Palestinian households have contested demolition orders, appropriation of land, the revocation of residency or denial of family reunification through the Israeli courts, at great expense and over protracted periods of time. It is not uncommon for such litigation to last for years and in some cases close to a decade, often at great personal expense.

Palestinian communities and activists face intimidation, arrest and violence. For the majority merely seeking to remain in their homes, the costs are high and cannot easily be calculated. Farmers in proximity of the buffer zone in Gaza, or near settlements in the Jordan valley, face risks simply to access their land. Palestinian households contesting attempts to evict or demolish their homes can face intimidation and violence by Israeli settlers, and uncertainty (sometimes for years) over their cases in Israeli courts.

The impact – social, financial and psychological – on the well-being of individuals, families and their children is cumulative. They experience vulnerability, trauma and anxiety, balancing the risks they face against the need to retain their properties and their possessions. Palestinian societal pressures may also add to the



Paul Jeffrey/Action by Churches Together

The eight-metre-high Wall (or 'separation fence') surrounds the West Bank town of Qalqilya.

difficulties faced by households who are unable or justifiably unwilling to remain in such precarious situations. The stigma associated with having relented to Israeli policies or actions can be significant.

#### Mitigating risks and promoting prevention

The humanitarian community, including both Palestinian and Israeli NGOs, has increasingly sought to assist these communities at risk to mitigate the risks of displacement by providing assistance which is preventive in nature. This includes the provision of emergency assistance to families whose homes could face demolition; livelihood assistance to rural communities to facilitate access to land or other means of livelihood; legal action by and on behalf of victims of eviction or demolition orders; and appeals against the revocation of residency, family unity or access rights.

Various Israeli, Palestinian and international agencies provide a protective presence in areas at risk of Israeli settler violence, as well as monitoring access through the checkpoints that are found across the West Bank and at the gates in the Wall. UN, Palestinian, Israeli, and international activists and associations have also raised awareness of the international community on the situation of forced displacement and extensively advocated on behalf of those displaced and at risk.

Displacement nevertheless continues to occur, while the pressures and costs of remaining and opposing Israeli policies of encroachment are high. Civilians who protest against demolitions or evictions as these take place are subject to fines, harassment and arrest. There have been incidents in the West Bank of Palestinians and others being killed while trying to prevent house demolitions.

Without denying the value of assistance provided by various UN and national and international agencies, communities affected by or at risk of displacement have underlined the failure of the international community of states to address the situation in areas under Israeli jurisdiction, and that such failure renders it complicit in a process of forced displacement. Though the international community has repeatedly condemned Israeli policies and actions that have resulted in further forced displacement, it has not held it accountable for actions it has committed and continues to commit.

The humanitarian community has and continues to play an important role in mitigating the level of displacement. Its impact, however, in putting an end to forced displacement is limited. The continuing displacement raises a question as to the humanitarian community's capacity to prevent displacement in the face of a state apparatus intent on driving people from their land.

The response of the humanitarian community should not detract from the need for the international community to ensure international humanitarian and human rights law is upheld and further displacements prevented.

This echoes the repeated appeals put forward by Palestinian, Israeli and international advocates that have highlighted the need for the international community to support Palestinian and humanitarian efforts at prevention, and the need to engage with the Israeli state in a manner which renders it accountable to international law.

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1. Report of the Rapporteurs on human rights in the oPt, March 2009 <http://tinyurl.com/UNHRC-03-09>

FMR issue 26 (August 2006) on 'Palestinian displacement: a case apart?' included 28 articles by UN, Palestinian and international human rights organisations, Palestinian scholars in the diaspora and Jewish and Israeli activist groups examining the root causes of the displacement of Palestinians, the consequences of the failure to apply international humanitarian law in the occupied Palestinian territories, and Palestinian entitlement to protection and compensation. Online at [www.fmreview.org/palestine](http://www.fmreview.org/palestine)



# East African refugees adapting to life in the UK

Samuel Bekalo

**This article reflects on the first-hand life experiences of refugees of East/Horn of Africa origin on arrival in the UK. The experiences – some of which could be seen as humorous or sad – may be informative and relevant for other practitioners.**

In recent years an increasing number of African refugee community groups have 'settled' in large UK cities and towns far away from the capital, London. This is in part due to the government's introduction of a dispersal system for new asylum seekers across the UK and in part due to shortage of accommodation in the capital. These African refugees and asylum seekers arrived in the UK having fled political and religious persecution as well as prolonged war in their countries of origins. The challenges they face include the complex issue of adjusting to the local culture and economic norms. Let us take a look at few examples of such refugees' initial UK life experiences.

*"On my first train journey in the UK, on my way to my dispersal place from my Home Office interview, wearing suit and tie I borrowed from a friend, I ended up sitting in First Class. The other carriages were packed and when I spotted a nice carriage with plenty of seats and fewer people, I sat there comfortably, wondering why other people standing in the other carriages did not do the same. On top of having a comfortable seat, I was offered free drinks and snacks without charge. In fact, I helped myself twice... Then I started chatting with the man sitting across from me in broken English, wondering about and appreciating the comfortable train of my 'adopted' country and the free treats.*

*Until the train conductor arrived, everything was fine and I was happy. When I showed the ticket to the conductor, he told me that I was in the wrong place and added that either I pay the full First Class fare or leave the carriage. The passenger who was chatting with me, also dressed in full suit and tie like me, burst into laughter. I think the passenger and the conductor might have thought that I was loaded because of my borrowed suit, not realising that I am a confused penniless new asylum seeker, although I had a respected high-earning business in my country before I fled due to fear of government persecution. The remaining journey after that was not quite the same."*  
(45-year-old male refugee)

Perhaps not surprisingly, given that most refugees came from a country where the authorities are often arbitrary and brutal, some also initially show suspicion and reluctance to seek or receive help from the UK law enforcement authorities as the following rare incident illustrates.

*"We were being attacked out of the blue whilst walking near our house by people we did not know. They were shouting at us in fast English for no apparent reason. Luckily, we were spared from a full assault by passers-by, who were also white like those attacking us. Yet they stood up for us and chased the attackers away and called an ambulance. They also explained the situation to the police in our support even though they didn't know us.*

*However, when the police came to our house next day to ask us about the incident, we were terrified. We thought they would*

*ask us for our papers and deport us back. In particular, when they offered us a free drink and brought us a free lawyer at the station, we became suspicious again. To our surprise, they were polite and did not bother us much except checking our records with the Home office and taking our statements."*  
(Three adult male refugees)

The new refugees also face the complex issue of adjusting to the new socio-cultural norms. In particular, adapting to the relatively liberal and progressive British culture appears to be tricky. One interesting observation is the difficulty of adjusting to changing gender status and family relations. The following discussion I had with refugee families during their children's birthday party gives some insights into this.

*"You see, when we come to this country the status of the husband and wife automatically changes. Men, who have had a good education and respectable job in our countries, suddenly find themselves jobless, confined to the house or doing small manual jobs. On the other hand, women who have had little or no job opportunity back home find cleaning or casual restaurant jobs. They are at least in a better position than us (men) here.*

*On top of this, some of our women go too far and too fast and they start nagging their husbands to look after babies all day long and to change nappy and all that stuff. When they go to college and workplaces, they mix with those women of this country called feminists. Then they think that all British men do all the domestic stuff for their wives, although some of the local men we know here behave exactly like our men back home – they don't even know how to cook proper food as some of us do. We think there are misconceptions and exaggerated expectations amongst some of our community members as to how husband and wife and family function in this country."*

Those who attempt to maintain the traditional status quo risk collisions with the new reality, which in rare cases result in family breakdown and in more serious tragedy. Those who make sensible adjustments to embrace the new reality and the positive aspects of the liberal UK tradition are managing to navigate through these additional life changes.

Same-sex relationships have also been another 'shocking' experience to the new refugee community groups. I note below one couple's reaction.

*"Once we got lost and ended up in a Gay Parade which was near the coach station. Being new to the country and the city, we had no clue of what was going on and could not even tell who were the men and who were the women, as their make-up and costumes were deceptive. All looked women to us. My wife, who speaks better English than I, approached a passer-by woman (turned out to be a man from closer look and his voice) to direct us to the coach station. At this point, my wife could not conceal her reaction of surprise and shock... Yet, to our surprise,*

*we found the gay man and his friends to be extremely polite and helpful. They patiently directed us all the way to the coach station. In our continent, let alone acting in street like this, even in private places, gay people would be in serious trouble. But, then again, this is a different, free country. It is good to know gay people are helpful but to be honest it will take us a while to properly get used to the whole idea of same-sex relationship."*

Even getting used to packed supermarket food can be a challenge for the first-timers, particularly to those who came from rural farming communities. Remarkably, in spite of initial challenges and numerous setbacks, refugee community members adapt to the new situations and some even thrive and positively contribute to the wider community much more quickly than one might anticipate. But how?

### Coping and support mechanisms

Among the most important and unassailable assets are close family/community cultural bonds and strong work discipline and faith. The refugee community groups tend to live in close proximity for comfort and mutual support to dull the teething problems of new settlement. At this stage, social interaction and leisure are often restricted to visiting friends in each other's accommodation. On the one hand, their accommodation becomes the main site for socialising; on the other hand, it also becomes a place of exclusion and isolation, particularly when dispersal housing is located in deprived areas and hostile environments.

In the recent tough economic climate of budget cuts and dwindling mainstream support services, charitable organisations and local British volunteers often step in to support disadvantaged groups such as refugees. Encouragingly, the refugees also organise themselves into formal community and faith support groups. Faith groups, in collaboration with local churches, play a key role in lifting the spirits of the newly arrived refugees battered by the odyssey of their journeys and the challenges of the new world. Although it is difficult to quantify the contribution of the faith/church groups, they appear to be more sustainable than other formal groups of refugees. As to how and why this is the case, however, is another matter which requires more time and careful analysis.

The largely fair UK governance and support system (including appeal procedures) have been crucial for these refugees' ability to settle. Given that they came from troubled countries in terms of the lack of respect for human rights and peace, they recognise and appreciate the freedom, peace and tranquillity of the UK. Their own innate courtesy and their adopted country's respect of the rule of law encourage members of these refugee communities to stay out of trouble and aspire to move forward.

The young African refugee communities are already leaving their indelible footprints across many UK cities' and towns' socio-cultural and economic landscape. Less

than a decade ago, vibrant African food and culture were non-existent outside London, especially far up in the North. Both in the good and bad economic times, they have contributed significantly to the local labour market, including working unsociable hours, during holidays and especially at the lower end of the skills market where needs are often great. They have also contributed – and are proud of doing so – in professional capacities and in job-creating entrepreneurial activities. The Somalis and Ethiopians, for example, are noted for establishing small businesses such as restaurants and money transfer internet cafes. One can only hope that the young and ambitious African refugee communities will continue to offer a unique added contribution to multicultural Britain.

This discussion, however, would be incomplete without touching on the effects of the current global economic climate. Inevitably, the economic slowdown is affecting these refugees, not least because they find it hard to keep or find scarce jobs during the cuts. Once again, they are resorting to their resilience and resourcefulness. With regard to cutting the sky-rocketing cost of energy bills, for example, the words of advice I have overheard might be relevant to others like myself living



As part of a project to encourage inter-community integration, many representatives of the local community took part in a party to celebrate the Ethiopian Millennium 2000 (2007 by the European calendar) in Leeds, UK.

on a tight budget – advice such as not turning on the heater until snow arrives, wrapping up oneself with cheap (but warm) fleece blankets from nose-to-toes and sleeping with a hot water bottle (two recommended for single person). One of the urgent problems which no one has yet come up with a solution is as how to have a hot shower without incurring energy costs. They say there is no shortcut for this. Another critical thing they say there is no shortcut to is learning the English language. It has to be learned one way or another, although the government cutbacks in free English courses since 2007 makes life more difficult for new asylum seekers and refugees. Some manage to access free language courses offered by charitable or faith groups. Some try a sort of self-taught method and advise that:

*“Even when one watches TV, you should watch it as work with a dictionary, not just as an entertainment. After an hour, you might get a bit of a headache from concentrating on a telly with a dictionary but if you keep on going you will get used to it. It will pay off eventually. My English became pretty okay after a year or so.”*

Refugee communities have come to recognise the strength and limitations of their traditions and those of the UK. By taking the best of the two cultures, they are paving a future path for themselves and their children. Accommodating and supporting the struggle and the ambitions of the new refugee community groups seem to me to be central to achieving progressive social cohesion. As one refugee puts it, such inclusion needs to go beyond the jazzy corporate shows of poetry and cultural shows. What is more important is to quickly and adequately address the initial, crucial cultural challenges; this could be done by employing multilingual and multiculturally-oriented members from within the refugee communities. Lastly, it would be both interesting and instructive to periodically revisit and reflect on the experience of these young African refugee communities.

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## The conveniently forgotten human rights of the Rohingya

Natalie Brinham

**As stateless Rohingya in Burma face containment in IDP camps and within their homes and communities in what is effectively segregation, their human rights are on the whole being ignored by countries keen either to support reform in Burma or to return refugees who have fled to their shores.**

It is no coincidence that the current crisis in Rakhine State in Burma has taken place against the back-drop of Burma’s widely hailed, yet still fragile, democratic reform process, the beginnings of which were marked by the elections of 2010. The toxic mix of general racism and an illiberal ex-military government seeking domestic support and democratic legitimacy has proved lethal to the rights of the stateless Rohingya in Burma.

The 1982 Citizenship Law of Myanmar, which ignored the Rohingya’s claim to citizenship and thus rendered them stateless, has formed the legal basis for arbitrary and discriminatory treatment against the Rohingya community and made them subject to a series of draconian policies and controls.<sup>1</sup> In June 2012, large-scale violence against the Rohingya – a stateless Muslim ethnic minority of around one million people – resulted in estimated thousands of deaths, the forced displacement of over 100,000 people, and the burning and destruction of homes and property throughout Rakhine State.<sup>2</sup> At the time of writing there continue to be outbreaks of violence, arbitrary arrests of Rohingya men whose whereabouts remain unknown, and torture and death in custody.

Since June, Rohingya have been largely segregated from the other populations in order to create ‘Muslim-free’ areas. Some have been ‘burnt out’ through the destruction of their homes and properties. Others have been relocated by government troops to IDP camps. Only

Muslim populations have been moved by the security forces; their displacement is thus discriminatory rather than protective. Those who were not displaced have been cut off from their livelihoods and face difficulty in accessing food and basic services. Further violence in October, which targeted Rohingya and other Muslim minorities throughout Rakhine State, resulted in the whole and partial destruction of Muslim areas and displacement of a further 36,000 people.<sup>3</sup> Cut off from their livelihoods and sources of income, unable to access markets, hospitals and schools, and without access to relief aid, hundreds of thousands of Rohingya are facing disaster.<sup>4</sup> The government maintains tight control over international agencies working in North Rakhine State, leaving little space for these agencies to engage in public advocacy on behalf of the affected population, let alone raise human rights concerns.

Recent events in Rakhine State should not be viewed in isolation; the Burma security forces have a long history of discrimination and systematic human rights abuses against them. President Thein Sein’s remarks in July 2012 that the “only solution”<sup>5</sup> to the troubles in Rakhine State was either to send stateless Rohingya to third countries or to contain them in UNHCR-administered camps caused outrage within the international human rights community. Despite the outrage, however, 110,000<sup>6</sup> Rohingya remain held in squalid conditions in IDP camps with no indication that





Saiful Huq Omi

Pushback from Bangladesh, 18th June 2012

they will be either allowed or assisted to return to their home communities or to resume their lives as before.

Countries to which Rohingya have fled over the years as refugees have been quick to condemn the recent spates of violence and persecution but have not been so quick to recognise the rights of stateless Rohingya refugees within their own territories. Bangladesh, for example, has pushed back thousands of recently arrived Rohingya and has blocked humanitarian assistance to the approximately 300,000 unrecognised Rohingya refugees living in Bangladesh. Discussion of 'regional solutions' has so far focused only on overcoming the problem of returning the Rohingya to Burma. Proof of commitment to protect the Rohingya would be better demonstrated by receiving countries if they were also to work together to protect Rohingya rights within their own territories.

Western countries' condemnation, on the other hand, has been overshadowed by their praise for the wider reforms in Burma. The West has rewarded Burma's government for the steps they have made towards democratic reform by easing sanctions and increasing investment. Yet failure of the international community to use their leverage over the Burmese state to ensure

protection and recognise the rights of Rohingya and other vulnerable populations in Burma could have dire consequences for both democracy and stability in Burma.

Under the rubric of maintaining order and stability against (perceived) domestic security threats – in this case the extremist Muslim Rohingya and the backlash of so-called 'communal' violence against them – the government seeks to legitimise the continued central role of the military in politics. Lost in this discourse is the fact that it may be the military/security forces, the perpetrators of decades of human rights abuses against the Rohingya, that are most in need of reform.

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1. See FMR 30 on 'Burma's displaced people' [www.fmreview.org/burma](http://www.fmreview.org/burma)
2. See Equal Rights Trust, 'Burning Homes, Sinking Lives: A Situation Report on Violence against Rohingya in Myanmar and their *refoulement* from Bangladesh', June 2012 <http://tinyurl.com/ERT-June2012>
3. See Human Rights Watch satellite images at [www.hrw.org/news/2012/11/17/burma-satellite-images-show-widespread-attacks-rohingya](http://www.hrw.org/news/2012/11/17/burma-satellite-images-show-widespread-attacks-rohingya) See also [www.equalrightstrust.org/ertdocumentbank/Rohingya\\_Emergency\\_Report.pdf](http://www.equalrightstrust.org/ertdocumentbank/Rohingya_Emergency_Report.pdf) (2 Nov 2012)
4. Burmese Rohingya Organisation – UK (BRO-UK), Press release October 2012.
5. See 'UNHCR seeks true community reconciliation in Rakhine State', *Myanmar Times*, 16 July 2012 [www.mmtimes.com/2012/news/635/news63506.html](http://www.mmtimes.com/2012/news/635/news63506.html)
6. As of late November 2012

# North Koreans in China in need of international protection

Roberta Cohen

**In the face of continuing persecution of North Koreans who are forcibly returned to their country of origin by China, the international community needs to reconsider how it might better work towards securing protection for North Koreans. Some may be political refugees, others ‘refugees *sur place*’; they may not have been refugees when they left their country but become refugees because they have a valid fear of persecution upon return.**

In February 2012, the South Korean press reported that China’s police were holding some 30 North Koreans who had crossed the border illegally, and were about to return them. Although this practice had been going on for decades, the South Korean government publicly protested for the first time and a number of Western and Asian governments raised the issue with China. The UN High Commissioner for Refugees publicly urged the Chinese government not to send the North Koreans back.

Behind the advocacy was the knowledge that, if returned, the North Koreans would face severe punishment. The North Korean government considers it a criminal offence to leave the country without permission and punishes persons who are returned. Those deemed to have sought political asylum in China or to have tried to reach South Korea receive the harshest treatment. They are subject to lengthy imprisonment or even execution. The group of 30 threatened with return fit these categories.

## Grounds for protection

In recent years, an increasing number of North Koreans arriving in the South<sup>1</sup> have been giving testimonies about the beatings, torture, detention, forced labour and – in the case of women impregnated by Chinese men – forced abortions or infanticide to which they have been subject following deportation.<sup>2</sup> When released from detention, many escape back to China and make the harrowing journey to South Korea.

While the Chinese government allows thousands or tens of thousands of North Koreans to hide in their country, the North Koreans have no rights and can be deported at any time. Over the past two decades, China has forcibly returned tens of thousands of North Koreans. In China’s view, they are illegal migrants who cross the border for economic reasons. Their status, however, is far from clear because China has no refugee adjudication process and UNHCR has been denied access by China to North Koreans at the border.

That a definite number are seeking asylum because of a well-founded fear of persecution is probable. Some 150,000 to 200,000 people are incarcerated in North Korea in labour camps and other penal facilities on political grounds.<sup>3</sup> North Koreans are regularly arrested if they express or appear to hold political views unacceptable to the authorities, listen to foreign broadcasts, watch South Korean DVDs, practise their own religious beliefs or try to leave the country. Moreover, those who serve time in detention for having gone to China know that they will be under surveillance – and face discrimination – in North Korea, and therefore

many leave again, this time not for food or work but to seek political refuge, ultimately in South Korea.

A second consideration is that a certain number of those who cross illegally into China for economic reasons could be found to qualify as refugees if they were compelled to leave North Korea because of economic policies that discriminated against or persecuted them on political grounds. In North Korea, under the *songbun* social stratification system, citizens are assigned to a particular class based on the political loyalty of their families (core, wavering or hostile).<sup>4</sup> Those in the lower categories do not have the same access to food and material supplies as do the political elite and much of the army. Their quest for economic survival could therefore be the result of political discrimination or persecution, and the right way to handle these cases would be to examine them in a refugee status determination process.

But by far the most compelling argument why North Koreans should not be forcibly returned is that most, if not all, fit the category of ‘refugee *sur place*’. As defined by UNHCR, refugees *sur place* are persons who might not have been refugees when they left their country but who become refugees at a later date because they have a valid fear of persecution upon return. North Koreans who leave their country for economic reasons – probably the majority – have valid reasons for fearing persecution and punishment upon return.

## Resisting pressure

In 2006, while on a visit to China, the High Commissioner for Refugees raised the concept of refugees *sur place* with Chinese officials. He told them that forcibly repatriating North Koreans without any determination process and where they could be persecuted on return stands in violation of the Refugee Convention. Since 2004, UNHCR has deemed North Koreans in China without permission to be ‘persons of concern’, meriting humanitarian protection. It has proposed to China a special humanitarian status for North Koreans, which would enable them to obtain temporary documentation, access to services, and protection from forced return.

Other UN bodies have also called upon China to halt the forced repatriation of North Koreans. The Committee against Torture, the expert body monitoring implementation of the torture convention, has called on China to establish a screening process and allow UNHCR access.<sup>5</sup> The Committee on the Rights of the Child has called on China to ensure that no unaccompanied child from North Korea is returned to conditions where there is “risk of irreparable harm”.<sup>6</sup>

These images are taken from *Lives for sale: Personal accounts of women fleeing North Korea to China*, published by the Committee for Human Rights in North Korea. Online at [www.hrnk.org/uploads/pdfs/Lives\\_for\\_Sale.pdf](http://www.hrnk.org/uploads/pdfs/Lives_for_Sale.pdf)



The bridge connecting Tumen in China and Namyang in North Korea, over the Tumen river.



Many North Korean women live with Chinese men and sometimes become integrated into Chinese local communities.



Two North Korean women working as sex workers in Qingdao leave after having interviews with a research team.



China's high-security Tumen Detention Centre where many women being sent back to North Korea are held pending their repatriation. Photo courtesy of T&C Research.

The reports of the UN Secretary-General and of the Special Rapporteur on human rights in North Korea as well as the resolutions of the General Assembly, adopted by more than 100 states, have called upon North Korea's neighbouring states to cease the deportation of North Koreans.<sup>7</sup>

To date, China has resisted these requests. Only in cases where North Koreans have made their way to foreign embassies or consulates or the UNHCR compound in Beijing has China felt impelled to cooperate with governments or UNHCR in facilitating their departure to South Korea or other countries. In March 2012, despite all the international appeals, China sent back to North Korea the group of 30 North Koreans – although it allowed eleven North Koreans who had been hiding in South Korean diplomatic missions in China to leave for the South.<sup>8</sup>

China is concerned about potential large-scale outflows from North Korea and the impact of such flows on North Korea's stability. It is also said to be concerned about potential Korean nationalism in its border areas where there are historic Korean claims. But by collaborating with North Korea in denying North Koreans the right to leave their country and seek asylum abroad, China is violating its obligations under refugee and human rights law and its responsibilities as a member of UNHCR's Executive Committee.

### Beyond the impasse

Would it help if governments were to step up their private representations to China and also issue public statements to try to persuade China to reverse its repatriation policy? Chinese President Hu Jintao's agreement to allow North Koreans in South Korean diplomatic missions to depart for South Korea came after talks with South Korea's President at the end of March. If other governments were likewise to request talks, progress might be made. And UNHCR could raise its profile. While some UNHCR staff fear that the agency could jeopardise its access to other refugee populations in China were it to become outspoken about the North Koreans, China's practices toward the North Koreans threaten to undermine the principles of the international refugee regime. UNHCR could urge China to call a moratorium on deportations and adopt legislation incorporating China's obligations under the Refugee Convention. China's current policy, it could be pointed out, will not stop North Koreans from trying to cross the border; it will only cause more human misery and subject China to greater international opprobrium.

Because the exodus of North Koreans affects far more countries than China, a multilateral response should be developed. South Korea's constitution offers immediate citizenship to persons from the North, and other countries have been willing to take in North Koreans as well. For its part, China at a minimum should provide residence permits for North Korean women consensually married to Chinese men and for their children. International burden sharing – as introduced for other refugee populations – should be developed in this case as the best way to end the ill-treatment of North Koreans and to find solutions for them. A multilateral approach could not be more timely now that hunger again stalks North Korea and new leader Kim Jong Eun appears to be continuing the policies of his predecessors.

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1. There are currently some 25,000 'defectors' in South Korea.

2. See Committee for Human Rights in North Korea, *Hidden Gulag Second Edition*, 2012 at [www.hrnk.org/](http://www.hrnk.org/); 'North Korean Prison Camps Massive and Growing', *New York Times*, May 4, 2011; and Department of State, 2011 Human Rights Reports: Democratic People's Republic of Korea, at [www.state.gov/j/drl/rls/hrrpt/2010/eap/154388.htm](http://www.state.gov/j/drl/rls/hrrpt/2010/eap/154388.htm)

3. Ibid. See also *Casebook of North Korea's Infringement of Human Rights*, National Commission of Human Rights of Korea, April 2012, at [www.humanrightskorea.org/tag/case-book-of-north-koreas-infringement-of-human-right/](http://www.humanrightskorea.org/tag/case-book-of-north-koreas-infringement-of-human-right/)

4. See Robert Collins, *Marked for Life: Songbun, North Korea's Social Classification System*, Committee for Human Rights in North Korea, 2012.

5. Committee against Torture, Concluding Observations: China, CAT/C/CHN/CO/4, 12 December 2008.

6. Committee on the Rights of the Child, Concluding Observations: China, CRC/C/CHN/CO/2, 24 November 2005, paras 80-82.

7. See UN General Assembly Resolution A/66/462/Add.3, 2011; and Report of the Special Rapporteur on the situation of human rights in the DPRK, A/66/322, 24 August 2011, para 70.

8. 'China to let 11 refugees in consulates to defect', *JoongAng Daily*, March 28, 2012.

# From a lab in Luxembourg to satellites in South Sudan

Marianne Donven and Mariko Hall

**A new communications platform for use in humanitarian emergencies made its debut in January 2012 in South Sudan, and is now being deployed elsewhere. Emergency.lu aims to be a global inter-agency tool.**

The demands placed on the humanitarian community in emergencies are enormously challenging. These are compounded by the fact that the IT and telecommunications infrastructure – critical for efficiently carrying out life-saving operations, though often taken for granted at headquarter level – is frequently non-existent or of poor quality in the field, thereby severely hampering relief efforts.

Recognising this need, in 2010 the Luxembourg Ministry of Foreign Affairs' Directorate for Development Cooperation established a partnership initially with three Luxembourg-based companies: HITEC Luxembourg, SES TechCom and Luxembourg Air Ambulance. A team of representatives from each partner travelled around the world discussing with different relief organisations how they might use private-sector know-how to meet the needs of humanitarian operations. The outcome of this fact-finding mission was 'emergency.lu', a mobile multi-layer communications platform which can provide high-speed internet connectivity and voice telephony services from the onset of a humanitarian disaster. Emergency.lu consists of satellite infrastructure and capacity to provide these essential communication services as well as global information management and actual transportation of equipment to the disaster area.

Emergency.lu offers two different communications 'kits': Rapid and Regular. The Rapid Deployment Kit includes an inflatable satellite dish and a compact ground terminal providing internet and voice communication services and offering a local area network. This Kit is easily transportable (can be taken by emergency workers on their flight) and is intended for the first phase of an emergency response.

The Regular Deployment Kit contains a more robust satellite dish and is deployed at the same time as the announcement of the emergency as part of a second-phase solution. The Regular Kit resembles a standard satellite dish but is specifically designed for emergency operations, without any loose parts, and is quickly and easily installed.

Since its inception, emergency.lu has expanded to incorporate additional partners, including the UN World Food Programme (WFP) which is the global lead of the Emergency Telecommunications Cluster (ETC)<sup>1</sup>, the International Telecommunications Union, the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the European Union. Private sector actors, including Ericsson Response and Skype, have also contributed to its development and deployment. In the critical first 72 hours after an emergency, the ETC commits to establishing internet connectivity from a Wi-Fi hotspot

and internet voice communications services within 48 hours of the necessary equipment being cleared through customs; emergency.lu meets these requirements.

## Deployment – successes and challenges

In December 2011, while emergency.lu was still being developed, the situation in South Sudan was deteriorating rapidly and the humanitarian community raced to scale up operations to cope with the influx of newly displaced people as well as continuing flows of returnees from Sudan. Relief efforts were severely hampered not only by persistent insecurity but also by limited public infrastructure and cell phone coverage, and by unreliable data connectivity services.

In January 2012, a team of technicians and emergency workers from WFP, Ericsson Response, the Luxembourg government and Luxembourg Civil Protection travelled to South Sudan. After initial testing in Juba, the first deployment of the complete ETC response solution (using the Rapid Deployment Kit) took place in Bentiu town in Rubkona County, where the majority of both government-assisted and spontaneous returnees were being recorded. Regular Deployment Kits were set up in Maban, Renk and Pibor counties. For the first time, relief workers in these four remote locations had reliable access to voice and data communication. Within just six months, this was benefitting more than 3,000 humanitarian workers in South Sudan from 156 organisations.

Deploying one of the world's newest connectivity solutions in the world's newest country did, of course, come with challenges. For example, the extreme weather conditions in Bentiu tested the robustness of the Rapid Deployment Kit and showed that the terminal containing the modem and servers needed a protective cover and the filters cleaned frequently. Frequent power failures were managed by operating two generators at each site as well as having batteries in case all else failed.

The ETC response solution includes a bandwidth management application that monitors what the terminals are being used for and, if exceeded, can limit to priority use. Putting in place and implementing a policy for efficient bandwidth usage was a challenge as each user has different values based on their own needs. Each installation provided a lesson to be learned – and implemented – for the future.

Since then, emergency.lu has also been deployed in Mali, with one Regular Deployment Kit (at the time of writing in late October 2012) deployed in Mopti in the north of the country. A second kit is awaiting its deployment in WFP's warehouse in Bamako. Additional kits will be deployed in Nepal and Venezuela in the coming weeks.



Haidar Baqir, ETC Coordinator, with the emergency.lu rapid deployment terminal in Juba, South Sudan.

### The future

Emergency preparedness is a fundamental phase of response. Seventeen emergency.lu kits are pre-positioned around the world, including in Luxembourg and Dubai, for rapid dispatch when the next disaster strikes. The Let's Net training course coordinated by WFP teaches IT emergency workers how to deploy emergency.lu and the complete ETC response solution.<sup>2</sup> To date, 46 emergency workers from eight different humanitarian organisations have successfully completed this course and are on stand-by for deployment.

In addition to both practical and theoretical training courses, emergency.lu, WFP and Ericsson Response continue to collaborate on developing and expanding the ETC response solution. It is anticipated that emergency.lu and WFP's EPIC<sup>3</sup> (Emergency Preparedness Integration Centre) programme will also be integrated

into a single communications and coordination platform for humanitarian emergency response.

In addition to a willingness to learn from deployments to date, open and frank collaboration between public, private and government partners has been critical in developing these tools, with all parties equally committed to contributing their unique experience and knowledge.

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1. <http://ictemergency.wfp.org/web/ictopr/emergency-telecommunications-cluster>  
For more information about the ETC services, see Mariko Hall 'The only constant is change', FMR 38 [www.fmreview.org/technology/hall.html](http://www.fmreview.org/technology/hall.html)

2. <http://ictemergency.wfp.org/web/ictopr/Lets-Net>

3. <http://globalepic.lu>

### World Disasters Report 2012

The *World Disasters Report 2012* focuses on forced migration and displacement, and on the people forcibly displaced by conflict, political upheaval, violence, disasters, climate change and development projects. The report analyses the complex causes of forced migration and its consequences and impacts on displaced populations, their hosts and humanitarian actors. It looks at the significant gaps in humanitarian protection for ever-increasing numbers of forced migrants who do not fit into the conventional categories of protection, and at the public health challenges caused by forced displacement, particularly for women, children and those with mental health problems. It examines the 'urbanisation' of forced migration, the role of climate change and environmental factors in forced displacement, and how new communications, information

and social networking technologies are reshaping the links between aid providers and migrants. It also tracks humanitarian funding for forcibly displaced populations, as well as the positive and negative economic impacts they have on host communities and countries.

The 310-page report is published by the International Federation of Red Cross and Red Crescent Societies. As usual, this year's edition also contains a section on 'Disaster data'. It was edited this year by Roger Zetter of the Refugee Studies Centre.

[www.ifrcmedia.org/assets/pages/wdr2012/download/index.html](http://www.ifrcmedia.org/assets/pages/wdr2012/download/index.html)



# Making work safe for displaced women

Dale Buscher

**Displaced women need opportunities to make a living for themselves and their families but these opportunities should not increase their vulnerability. Understanding risk factors and protection strategies allows practitioners to ensure appropriate programme design and implementation.**

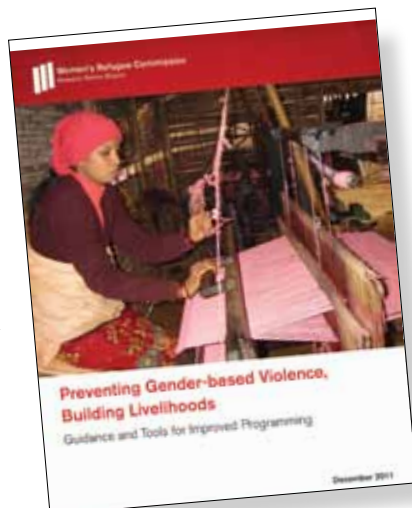
For women refugees, work is frequently a double-edged sword. To meet basic needs, even within a camp, displaced women must often work to feed and educate their children, and displacement can create new opportunities for them to earn money and enter the workforce. Many women, however, face a trade-off between their livelihood and their protection, exposed to new risks by being more mobile in new and insecure environments.

Self-reliance for refugees and internally displaced people (IDPs) is increasingly important as conflicts and displacement drag on. Funding constraints and fear of creating undue dependency push humanitarian actors to promote livelihood opportunities but practitioners seldom assess and plan for the risks that women might then be exposed to.

In studying the links between livelihoods and gender-based violence (GBV), the Women's Refugee Commission (WRC) found that many of the economic opportunities that refugee and IDP women have access to – and that humanitarian practitioners support – expose them to heightened risks, and that few practitioners put an emphasis on the protection and prevention of GBV within their programmes.<sup>1</sup> Instead, programme success is measured by jobs created and income generated, without attention to risks such as exposure to sexual violence, harassment, physical abuse, exploitation and non-payment of wages.

A report published by WRC in December 2011 aims to address the knowledge gap on how to identify the risks associated with livelihood interventions as well as to build awareness around how to make economic programmes safer for women.<sup>2</sup> The report provides appropriate guidance and tools, and suggests building on the frequently used 'safety mapping' concept as a first step towards a more comprehensive analysis of risks and responses. 'Safety mapping' gives women an opportunity to collectively map their own communities and identify which locations – especially those important to their livelihoods – bring greater risk of harm and what kinds of harm they are likely to be exposed to in those locations.

Historically, the data collection has stopped there.



The WRC, however, encourages additions to this exercise in order to assess multiple risks factors:

- times of day/week/month when risks are heightened
- situations (borrowing money, selling goods, getting stopped by the police, etc) in which harm or violence are likely to increase
- relationships (intimate partner, buyers, vendors) that lead to increased insecurity.

This data is then married with an assessment of the individual's and/or group's 'safety net' – in other words, an analysis of the strength of their social networks (e.g. do they have at least five non-family friends? do they have a safe place to borrow money?) and the protection strategies they employ. When analysed, this data allows practitioners to determine if they should be developing additional protection strategies for their livelihood intervention and with which women.

A good example is in New Delhi, where refugees are not permitted to work legally but are tolerated in the informal economy, the NGO Don Bosco Ashalayam places Burmese women in unregulated small factories in West Delhi.<sup>3</sup> Recognising the potential risks that women face in these settings, the Don Bosco staff screen the potential employers to ensure that women are placed in pairs or where other women are already working, and conducts regular monitoring visits to placement sites. The staff also help to negotiate fair wages, working hours and conditions. These efforts significantly reduce the refugee women's risk of exploitation and abuse. The employers comply by transparently agreeing on wages and conditions because they understand that the women have community members behind them and a strong NGO advocate watching their back.

While creating economic opportunities for displaced women is vital for household well-being, humanitarian practitioners have the additional responsibility to ensure that those opportunities are as safe as they can be. The focus needs to be on making it safe for women to work.

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# Lessons from mobilisation around slum evictions in Tanzania

Michael Hooper

**Forced evictions are a prominent challenge facing developing world communities, and a major driver of forced migration. A study of forced urban eviction in Tanzania shows that grassroots mobilisation alone may be unable to confront the challenges of displacement and that there are risks when mobilisation around displacement is premised on unrealistic expectations.**

It is estimated that 4.3 million people globally were affected by forced evictions in 2007-08. In the developing world especially, there is a hope that grassroots mobilisation can serve as a means for marginalised groups to address such challenges.

Dar es Salaam's Kurasini ward lies adjacent to the city's port and is home to approximately 35,000 people. In October 2007 the government started evicting residents from the community in order to expand fuel storage capacity in the area. The Tanzania Federation of the Urban Poor (TFUP) – affiliated with Slum Dwellers International (SDI) – was the main group that mobilised residents around the eviction. The principal mobilisation effort undertaken by TFUP members in Kurasini before the eviction was a community-led population census and comprehensive mapping of plots and households. Accepting that the eviction would take place, TFUP used the data to lobby government for a grant of land for community resettlement. Six months after eviction, no grant of land had yet been secured and evictees were forced to independently find homes elsewhere in the city.

With respect to post-eviction outcomes, evictees who resettled as owners tended to relocate significantly further from their former homes than those who resettled as renters (an average of 4.5 kms distance versus 1.3 kms). In addition, the most negative impacts were found in employment, rather than housing. And TFUP members fared worse than non-members, particularly in respect of employment.

It appears that being a member of TFUP negatively affected resettlement outcomes by raising members' resettlement expectations and adversely influencing their strategies for securing post-eviction housing. Instead of finding new housing quickly, TFUP members intentionally delayed in anticipation of obtaining land and housing as a result of TFUP's mobilisation efforts. Six months after the eviction, none of the evictees reported having received any housing assistance from the movement. In Dar es Salaam's competitive housing market, the delayed action of TFUP members to find housing forced them to resettle relatively further from their former homes than non-members.

Since owners resettled significantly further from their former homes than renters, the strategy of delayed housing search was particularly problematic for members who resettled as owners, some of whom were forced to move to plots further than 20 kms from their former homes. Delayed action on securing housing after the eviction led TFUP members also to

experience more negative outcomes with respect to employment. These evictees either had to commute long distances to jobs near their former homes or find new forms of livelihood in their new places of residence.



Demolished homes following evictions in Dar es Salaam's Kurasini Ward.

The conclusion is that where expectations around the outcomes of mobilisation are unrealistic, they may ultimately prevent more pragmatic action to protect evictees' interests. While no direct promises were made to TFUP members by movement organisers concerning resettlement, the evictees' persistent belief that members would receive a grant of land became well established in everyday discussions and planning. This occurred in part as a result of brainstorming exercises in which TFUP members worked with local architects to visualise their post-eviction homes. The results suggest that proactive efforts must be made to support communities in their efforts to cope with highly disruptive events, such as evictions and consequent migration. However, while participatory approaches have considerable potential, especially in contexts where governments are unwilling or unable to act on behalf of communities, this case shows that organisers must be especially careful to establish clear and realistic expectations.

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# From the Nansen Principles to the Nansen Initiative

Walter Kälin

**The Nansen Initiative launched in October 2012 aims to build consensus among states about how best to address cross-border displacement in the context of sudden- and slow-onset disasters.**

Among humanitarians and students of international law, Fridtjof Nansen is mainly remembered as the first High Commissioner for Refugees whose 'Nansen passport' provided a degree of international protection to scores of paperless refugees. A wider public knows him as the successful polar explorer.

During one daring expedition, from September 1893 to August 1896, Nansen sailed his ship, the *Fram*, into the ice pack off Siberia, trusting that a strong current carrying the polar ice westwards would allow him to cross the arctic region. His instincts were correct, and the expedition provided science with important new knowledge about oceanography and meteorology, contributing significantly to understanding the climate dynamics in one of the globe's most hostile environments. Nansen also became an accomplished and successful diplomat, able to translate humanitarian principles into action and convincing others to join him.

This unique legacy of humanitarianism, environmental studies and diplomacy inspired the name not only of the Nansen Principles but also of the Nansen Initiative launched by Norway and Switzerland in October 2012.

## The Nansen Principles

The ten Nansen Principles, while not formally adopted, reflect the outcome of the Nansen Conference on Climate Change and Displacement in the 21st Century hosted by the government of Norway in Oslo in June 2011.<sup>1</sup> The Principles contain a broad set of recommendations "to guide responses to some of the urgent and complex challenges raised by displacement in the context of climate change and other environmental hazards" (Preamble).

Principle I highlights the need for a sound knowledge base to respond to climate and environmentally related displacement. Principles II – IV then set out the respective roles and responsibilities of relevant stakeholders. In accordance with international law generally, they recall that the primary responsibility to protect populations affected by climate change and other environmental hazards, including the displaced, hosting communities and those at risk of displacement, lies with states but that the challenges created by climate change, including those linked to human mobility, cannot effectively be addressed without the leadership and engagement of local governments and communities, civil society and the private sector. Where national capacity is limited, regional frameworks and international cooperation will be needed to help prevent displacement, assist and protect communities affected by such displacement, and find durable solutions. In this context, it is particularly important to strengthen prevention and build resilience in accordance with the principles enshrined in the Hyogo Framework<sup>2</sup>

(Principle V) and to build local and national capacity to prepare for and respond to disasters (Principle VI).

The Nansen Principles stress that existing norms of international law should be fully utilised and normative gaps addressed (Principle VII). Although for those displaced within their own country, the Guiding Principles on Internal Displacement provide a "sound legal framework", implementation is not possible without adequate national laws, policies and institutions (Principle VIII). At the same time, the Principles acknowledge the normative gap regarding the protection of people displaced across international borders owing to sudden-onset disasters and suggest the development by states working together with UNHCR of a guiding framework or instrument (Principle IX). The final Principle reiterates that all "policies and responses, including planned relocation, need to be implemented on the basis of non-discrimination, consent, empowerment, participation and partnerships with those directly affected, with due sensitivity to age, gender and diversity aspects", taking into account the voices of the displaced or those threatened with displacement (Principle X).

## Onto the international agenda

The Nansen Principles are not a soft law instrument; rather, they outline in broad strokes a policy framework for addressing disaster-induced displacement by identifying key actors and relevant areas of activity. As such, they constitute an important step in the process of putting such displacement onto the international agenda.

After lobbying by the Heads of Organisations of the United Nations Inter-Agency Standing Committee, in December 2010 States Parties present at the Cancún Climate Change Conference adopted Paragraph 14(f) of the Outcome Agreement on Long-term Cooperative Action inviting states to augment action on climate change adaptation by undertaking, among other things, "[m]easures to enhance understanding, coordination and cooperation with regard to climate change-induced displacement, migration and planned relocation, where appropriate, at the national, regional and international levels."

This provision is important in several respects. For the first time, the international community recognises explicitly the humanitarian consequences of climate change-related population movements as an adaptation challenge. Second, displacement is expected to become part of national adaptation plans foreseen by the Outcome Agreement, thus providing an entry point for protection and assistance issues. This opens up the prospect that the Green Climate Fund, set up to finance adaptation measures, may support activities in the field of displacement occurring in the context of climate change.



Finally, the agreement recognises that efforts to address displacement need to be undertaken not only at the national but also regional and international levels, thus putting climate-related cross-border displacement as well as internal displacement on the international agenda.

Paragraph 14(f) does not, however, say how exactly climate change-induced displacement should be addressed. This is why UNHCR took the initiative to bring together a group of experts in February 2011 to discuss options for addressing climate-related displacement, internal as well as across borders.<sup>3</sup> The June 2011 Nansen Conference was the next step which should have led to states making a commitment to address the issue at the December 2011 UNHCR Ministerial Meeting to commemorate the 60th and 50th Anniversaries of the UN Refugee and Statelessness Conventions respectively. However, the Ministerial Communiqué adopted on this occasion did not contain any direct reference to cross-border movements triggered by climate-related and other natural disasters. This was no accident but rather the expression of a lack of willingness by a majority of governments, whether from reasons of sovereignty, competing priorities or the lead role of UNHCR in the process.

### The Nansen Initiative

To break this impasse, Norway and Switzerland pledged “to cooperate with interested states, UNHCR and other relevant actors with the aim of obtaining a better understanding of such cross-border movements ..., identifying best practices and developing consensus on how best to assist and protect the affected people.” Mexico made a similar pledge.

In October 2012 Norway and Switzerland then launched in Geneva and New York what they are calling the ‘Nansen Initiative’. This is conceived as a state-owned consultative process, outside the UN, to build consensus – in a bottom-up way – among interested states about how best to address cross-border displacement in the context of sudden- and slow-onset disasters. It will go beyond the Cancún Outcome Agreement insofar as it will look not only at climate-related but also at geophysical disasters.

The Initiative will start with a series of regional- or sub-regional consultation meetings in regions particularly affected by actual or expected disaster-induced cross-border displacements including the South Pacific, Central America and the Horn of Africa, bringing together governments from these regions and from countries of destination. The views of academics and relevant organisations dealing with humanitarian issues, development and climate change as well as representatives of affected populations will also be elicited. These consultations will build a sound knowledge base, with research to close gaps in knowledge and understanding, as well as identify areas of agreement or disagreement and provide input for consultations at the global level.

The Initiative, while focusing on the protection of people, will have a wider scope addressing issues of international cooperation and solidarity; standards for the treatment of affected people regarding admission, stay and their access to basic rights; and operational responses including funding mechanisms and responsibilities of international humanitarian and development actors.

It will focus on protection and assistance during displacement as well as the transition to longer-term solutions in the aftermath of a disaster but will also take into account the challenges for preparedness before displacement occurs. While the Initiative focuses on the needs of persons displaced across borders, it will also highlight the two-way linkages with related issues such as disaster risk reduction, internal displacement or the management of migration as an adaptation measure.

The outcome of this three-year long process will be a Protection Agenda that is expected to:

- present a common understanding among participating governments of the issue, its dimensions and the challenges faced by relevant stakeholders
- identify good practices and tools for the protection of persons displaced across borders in the context of natural disasters
- agree on key principles that should guide states and other relevant stakeholders in the three areas of inter-state/international cooperation, standards of protection of displaced people, and operational responses
- make recommendations on the respective roles and responsibilities of relevant actors and stakeholders
- propose an action plan for follow-up, identifying further normative, institutional and operational developments needed at national, regional and international levels.

In organisational terms, the Nansen Initiative will be driven by a small Steering Group, chaired by Norway and Switzerland and consisting of a small group of states from both the global North and the global South. Thus far, Australia, Costa Rica, Kenya, Mexico and the Philippines have joined the Steering Committee, and UNHCR, IOM and the Norwegian Refugee Council will play active roles. Intellectual underpinning for the Initiative will be provided by a Consultative Committee made up of representatives from international organisations and agencies as well as researchers, think tanks and academic institutions that can inform and support the process with their experience. Finally, it will be supported by a small secretariat and an Envoy of the Chair who will represent the initiative in relevant fora. Activities will start in early 2013.

It is hoped that this soft, state-driven and bottom-up approach will help to develop the “more coherent and consistent approach at the international level [...] to meet the protection needs of people displaced” across borders in the context of natural disasters and help the international community to develop an effective normative and institutional framework in this regard, as called for by Nansen Principle IX.

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1. Nansen Principles at [www.regjeringen.no/upload/UD/Vedlegg/Hum/nansen\\_prinsipper.pdf](http://www.regjeringen.no/upload/UD/Vedlegg/Hum/nansen_prinsipper.pdf)  
See also [www.nansenconference.no](http://www.nansenconference.no)

2. Hyogo Framework for Action 2005-2015: Building Resilience of Nations and Communities to Disaster.

[www.unisdr.org/2005/wcdr/intergov/official-doc/L-docs/Hyogo-framework-for-action-english.pdf](http://www.unisdr.org/2005/wcdr/intergov/official-doc/L-docs/Hyogo-framework-for-action-english.pdf)  
3. Report at [www.unhcr.org/4da2b5e19.pdf](http://www.unhcr.org/4da2b5e19.pdf)

# Are refugees an economic burden or benefit?

Roger Zetter

**The notion of the ‘refugee burden’ has become firmly rooted in the policy vocabulary of governments and humanitarian actors. Understandably, governments emphasise the negative impacts and costs but these, although undeniable and well documented, are only part of the picture.**

Thirty years ago ICARA 1 (International Conference on Assistance to Refugees in Africa, 1981) and ICARA 2 (1984) highlighted the ‘burden’ that refugees place on their hosts: imposing additional costs on already hard-pressed public and social welfare budgets, arresting economic growth, distorting markets, causing environmental degradation and putting political strains on already fragile and conflict-affected countries. On the other hand, refugees also bring economic benefits and development potential – for example, new skills and, above all, expanding consumption of food and commodities such as building materials, which stimulates growth of the host economy. At the same time, the host community may benefit from assistance programmes such as infrastructure and welfare services provided by agencies responding to refugees’ needs.

Surprisingly, detailed assessment of the impacts and costs of refugees (or IDPs) is a major gap in the humanitarian toolkit. Donors rarely analyse the economic outcomes of their programme and project ‘investment’ which globally is worth about US\$8.4bn per annum from OECD DAC<sup>1</sup> countries alone. To the extent that any evaluation does take place – and this is rare, usually descriptive and always incomplete – governments tend to assess the impacts and costs for the host community, while donors and NGOs focus on the outcomes of their skills development and income-generating projects or cash and vouchers assistance for refugee livelihoods. Neither approach provides an aggregate account of the macro- and micro-economic and fiscal impacts and costs, and quantitative methods and hard empirical data are noticeable by their absence.

Curiously, economists have largely neglected these important policy and conceptual challenges, in contrast to the countless qualitative studies on refugee livelihoods by sociologists and anthropologists. Overall, it is usually contended that the ‘costs’ of refugees on their hosts – rising food and commodity prices, the depression of local wage rates, fiscal pressures, increasing environmental degradation – outweigh other micro- and macro-economic benefits. A significant exception to this analytical gap is a recent, largely micro-economic, study of Dadaab refugee camp<sup>2</sup> which showed that the positive economic impact of the camps for the host community was US\$14 million – about 25% of the per capita income of the province. Income benefits to the host community from the sale of livestock and milk alone were US\$3 million, while over 1,200 local people benefited from refugee camp-related employment or trade-related work.

Studies such as this, though few and far between, introduce the complexity and diversity of typical impacts as well as their negative and positive characteristics. The problem to date has been the lack of a comprehensive framework with appropriate

analytical tools and systematic methodologies to provide the evidence base by which to evaluate the ‘winners’ and ‘losers’, and to develop policies which respond to the actual or potential impacts.

## Developing a new methodology

A recently completed study for the World Bank by the Refugee Studies Centre in Oxford, ‘Guidelines for Assessing the Impacts and Costs of Forced Displacement’,<sup>3</sup> responds to these needs. The Guidelines aim to support both World Bank policymakers and humanitarian actors by providing appropriate and easy-to-use assessment tools for analysing the economic and financial consequences of development and humanitarian assistance.

The **first stage** in providing a comprehensive account is to ensure that, wherever possible, all four relevant ‘stakeholder groups’ are incorporated into the analysis, namely: refugees; host population and country; area and country of origin; and providers of assistance to the displaced.

Analysis of the impacts and costs for the country of origin may seem at odds with the more familiar assessments of the impacts on refugees themselves and their hosts. Yet the impacts are usually severe, for example through the loss of domestic consumer demand and perhaps skilled and professional workforce (a notable feature in the case of refugees leaving Iraq); this has implications for the long-term development of the country as well as for the potential for the return of refugees.

For each stakeholder group the approach mainly focuses on changes in household-level livelihoods and economic well-being, drawing on the well established Sustainable Livelihoods Framework originally developed by the UK’s Department for International Development (DFID) in 1999. This approach is widely used by development policymakers but has not been systematically applied to evaluating the impacts of refugee situations. By applying and refining the approach, these Guidelines seek to fill this significant gap.

The **second stage** involves identifying a range of mainly quantitative parameters to measure impacts (for example, income, assets, employment and access to natural resources), together with mediating factors such as age, gender and length of exile. Qualitative factors such as perceptions of security and protection are also identified. The importance of including mediating and qualitative factors is to capture the fact that household livelihood strategies are susceptible to substantial adjustment, adaptation and transformation under conditions of forced displacement, for example through changing gender roles and child labour.

The **third stage**, and the main task, is to apply the methodology with the aim of constructing an overall socio-economic profile and analysing how the profile is affected by forced displacement for each of the stakeholders. Measurement of the changing levels of economic well-being over time, assessment of social change and household dynamics, and self-reliance and coping strategies are important components of the profile.

In this stage, the methodological tools are also deployed to assess the costs and impacts of the fourth stakeholder group: international agencies, donors and other providers of humanitarian and development assistance. This is a valuable part of the approach because it provides the basis for assessing the potential success and opportunity costs of different strategies (and priorities for funding) adopted by these actors.

Alongside the main focus on household livelihoods, the impacts and costs are also analysed in relation to the public sector costs, the externalities (that is, costs or benefits that affect somebody other than the people engaged in the economic activity), and macro-economic outcomes. The assessment can be applied at any scale – for example, in a refugee camp and its locality, in urban settings or aggregated to the national level.

For the host country **public sector** there are fiscal costs and impacts in providing social and welfare assistance for refugees – eg increased medical and education provision, increased demand for utilities such as water – and longer-term capital costs and impacts such as infrastructure investment. In the short term, the impacts of increased refugee-derived demand are likely to be negative for the

host community; for example, a decline in the quality of service provision is likely with higher demand for existing services such as healthcare or education or water supply. In the longer term, the impacts are likely to be reflected in expanded investment in capital assets such as medical centres, classrooms or road access to refugee camps. In the absence of a methodology such as that discussed in the Guidelines, it has not been possible to fully expose and assess these fiscal impacts and their consequences. For example, the host community is likely to face an increase in taxation to pay for the investment in capital assets or may pay an opportunity cost by forgoing alternative public sector investment options, or the costs may be covered by externally funded humanitarian and development assistance.

**Externalities** – or ‘spillover’ effects – are unpriced costs, the impacts of which are usually incurred by the people or areas where refugees live. The most obvious such spillover is the detrimental effect of refugees on the environment, depleting woodland for construction and firewood, and causing loss of natural habitat. In urban areas, added congestion, further degradation of already environmentally precarious informal settlements and a perceived decline in security may accompany the arrival of refugees. The impacts of these externalities are negative, usually long-term, rarely compensated by public expenditure and only partially compensated by humanitarian or developmental assistance.

Finally, while the methodology’s focus is on livelihoods and micro-economic impacts and costs, assessing the impacts at the **macro-economic** level is an equally important dimension of the analysis. Refugees increase



Making fuel-efficient stoves in Hagadera camp, Dadaab, Kenya. Fuel-efficient stoves require investment by assistance organisations but reduce the impact on the local environment.

consumption and can thus stimulate an expansion in the productive capacity of the host economy, measurable as part of a country's GDP (Gross Domestic Product). However, these outcomes tend to be felt only in the long run and, as a result, are harder to detect in the short term. The main impacts are seen in investment and capital formation – for example, in additions to the housing stock or to infrastructure, or in the start-up of new businesses. No detailed econometric analysis has been conducted on the Eastleigh area of Nairobi, where many Somali and other refugees have settled, but it is frequently cited as a vibrant location for new small business development, adding to the output of Kenya's urban economy. Similarly, Afghan refugees dominated the trucking business of Pakistan, creating new markets for transport and adding to the productivity of the host country economy.

The methodology highlights short- and long-run effects and, in particular, the unequal distribution within society of impacts and costs. For example, the overall aggregate demand of refugees may have positive impacts on the productive capacity of the host economy by increasing demand for food, building materials and consumer goods. New infrastructure may improve access to markets and enhance distribution of commodities. However, these benefits are usually unequally distributed. While these outcomes, in the short term at least, benefit host farmers, building contractors, local traders and micro-enterprises, rising commodity prices and falling wage rates (with more refugees entering the labour market) negatively affect the poorer segments of the host population. Poorer people may pay higher rents while their wages may be depressed, notably in semi- and unskilled sectors, and so their living standards may fall. The methodology exposes these imbalances which governments and donors may wish to correct.

### Mixed methodology and data needs

A key feature of the Guidelines is a mixed methodology of quantitative and qualitative tools which makes a holistic analysis of the different dimensions of impacts and costs and their policy and programme implications feasible. Not all impacts can be 'costed' and expressed in monetary terms, and so qualitative indicators are used to determine the impacts of variables such as the reduction (or increase) in human security, the adoption of coping mechanisms, and changing gender roles.

Various survey methods are recommended, such as random sample questionnaire surveys, key informant surveys and focus groups, as well as the use of statistical data from government sources and humanitarian and development actors. The methodology relies on a number of statistical tools such as correlation and regression analysis to measure impacts and costs.

One of the major practical challenges in using the Guidelines is the availability of data, and especially time series data (that is, data measured over time at uniform time intervals), in order to assess changing impacts and costs over time. In terms of assessing impacts and costs for the country of origin, here the obvious difficulties are collecting data if conflict is continuing and separating out the impacts caused by

refugee displacement as opposed to the wider destructive impacts of conflict on infrastructure and capital assets.

### Conclusions

By providing a portfolio of principles, analytical tools and indicators, the Guidelines address important policy and operational demands of donors, humanitarian agencies and governments. However, of themselves, they are not a decision-making tool: they indicate but do not prescribe the kinds of policy and programme choices that might be made.

Nevertheless, their value is fourfold. First, they provide a more rigorous conceptualisation of the costs and impacts, emphasising a wide range of economic variables, not just claims on public sector expenditure and the far more familiar social impacts. Second, as a programming and policy tool, the Guidelines can indicate interventions that better respond to the economic and livelihood needs of forced migrants and other populations affected by the presence of forced migrants. By offering a more systematic methodology for analysing these phenomena, the Guidelines enhance the credibility of the assessment of costs and impacts and, consequently, may permit better targeting of assistance and support to those sectors of the economy and populations (refugees and hosts) which are most under pressure. Third, if time series profiles can be developed, they have the potential to be an effective monitoring and evaluation tool. Fourth, and perhaps most important, by shifting the analytical frame from emergency to longer-term economic and financial impacts, the Guidelines help to transcend the humanitarian-development 'divide'. By linking humanitarian and emergency interventions with development programmes, the Guidelines indicate ways in which more positive social and economic impacts might be promoted that improve the longer-term situation of both the displaced people themselves and the host population.

In the end, decisions about interventions will be made as they always have been by a combination of humanitarian principles, the conditions of different operating environments, locations and patterns of displacement, and the political interests of the various stakeholders. However, analysis based on the Guidelines can provide a much more robust evidence base to inform policymakers and practitioners about the policy and programming choices they might select, and the scope for maximising the positive impacts and minimising the negative outcomes and costs of displacement both for the refugees and their hosts.

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1. Organisation for Economic Co-operation and Development's Development Assistance Committee.

2. Available online at <http://tinyurl.com/reliefweb-dadaab2010>

3. Available online at <http://tinyurl.com/WB-Guidelines-Costs-Impacts>

# Overseas cultural orientation programmes and resettled refugees' perceptions

Julie M Kornfeld

**Despite widespread participation in cultural orientation programmes, resettled refugees often have misconceptions about their potential for self-sufficiency in the United States, and experience adjustment problems after their arrival. Making changes to these programmes could improve outcomes of the refugee resettlement process.**

Cultural orientation (CO) programmes operate in over 40 countries to facilitate the resettlement of refugees in the United States (US). These programmes focus on employment, housing, education, health, money management, travel, hygiene and the role of the resettlement agency.

Previous reviews of CO effectiveness have evaluated refugee camps and refugee resettlement as separate entities. However, few investigations have attempted to understand the relationship between refugee preconceptions, CO and refugee experience after resettlement in the US. We interviewed 17 resettled refugees – six African, five Bhutanese and six Burmese – who had attended programmes and seven case-workers.

It emerged that the refugees had primarily formed notions about the US from the media, friends and family but some also referred to what they had learned during their CO programme (mainly about job applications and related information). Refugees' comments reflected the emphasis in CO programmes on the need to seek employment as soon as possible, and the reality that most would enter the employment market on the lowest rungs, regardless of their previous experience. One refugee said that CO taught him that family ties would not assist him with employment as it did in his native country: "This is not like back home where your uncle knows someone and you bring your son and he can start with me, my company, tomorrow... it doesn't work that way... it's not going to be the same when you come to America."

Though refugees acknowledged their potentially limited opportunities regarding higher-level jobs, they nevertheless were surprised by the fast-paced working environment, the number of hours they would be working, and the manual labour involved, or the difficulties in entering their field of expertise. A Burmese refugee, formerly a history teacher, remembers, "I thought it would be easy and that there would be a lot of jobs." A caseworker noted: "A lot of individuals... have owned their own businesses before and so they haven't even had the experience of having to... explain why they should be considered for the job." Additionally, though many refugees are trained, educated and employable in their home country, they lack certification for the US. An African refugee also pointed out that more highly skilled positions in the US require references, and newly resettled refugees often do not have these.

Many caseworkers explained that a common misconception is that agencies have "jobs to hand out" and thus that refugees do not have to be active

in the job application process. The majority of refugees believed that the US government would provide them with unlimited welfare, and they would have unlimited rights after arrival. Refugees who were housed in camps for significant portions of their lives were more likely to overestimate the support they would receive from the government.

Refugees mentioned many barriers to economic self-sufficiency, happiness and the fulfilment of their dreams. Their lack of English proficiency was their greatest challenge in being hired or keeping a job. Refugees recalled being qualified for certain jobs but not being hired because they lacked the proper English to communicate effectively in interviews. Other refugees were hired but quickly fired, because they could not understand instructions.

Most refugees recalled learning about activities of daily life in the US, including paying rent and utility bills and budgeting for food. Two refugees credited the CO programme for their knowledge about transportation in the US; however, one refugee complained, "They showed us the train but not how to use it. They showed us the bus but not how to use a bus pass."

Four refugees remembered learning from CO about the difference between their cultural norms and those of the US, particularly regarding domestic violence. An African refugee recalled learning about body language, greetings and gestures, and reflected, "You don't greet people the same here as at home. We would practise giving each other handshakes." Finally, refugees had misguided notions of the ethnic, racial and socio-economic diversity of America, believing rather that America had a homogeneous population of white, wealthy individuals.

## Recommendations

Some common themes emerged from the interviews, suggesting ways in which CO programmes might more effectively help refugees in their transition into America:

- Extend CO length to increase the chances of accurate, relevant refugee perceptions. Several interviewees also requested starting class earlier in relation to their departure time to the US.
- Have fewer topics and more in-depth discussion on issues deemed most important for the early resettlement period: employment, culture and initial services provided, plus individual responsibilities.
- Provide English instruction.

- Tailor teaching methods to a) allow refugees to learn in an active and multi-media environment and b) take language, culture and variations in skill level into account in the curriculum (and create lesson plans tailored to requirements).

The US has committed to resettling 80,000 refugees annually. The more useful CO instruction is, the more prepared these refugees will be for the demands of

early self-sufficiency and acculturation and the more efficient their transition into American society will be.

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## Challenging RSD clients' preferences for foreign service providers

Christian Pangilinan

**Organisations that provide legal services to refugees and asylum seekers face the challenge of responding ethically to clients' requests to be assisted by foreigners as opposed to by nationals in country offices.**

NGOs that provide support in the Global South for refugees and asylum seekers in the refugee status determination process (RSD) or with respect to asylum claims usually host both domestic and foreign attorneys in their offices. What, then, should their response be when a client asks that they be served by a foreigner rather than a national attorney or legal advisor?

There are a number of reasons why asylum seekers might request a foreign attorney. Their interactions with citizens of the country of asylum may have been negative and they may think that attorneys from the country of asylum would be similarly unfriendly; some asylum seekers fleeing ethnic or tribal conflict may believe national attorneys might favour one or other side to the conflict; others may believe that a foreign attorney is more likely to be taken seriously by UNHCR or by the government of the country of asylum; and, finally, some asylum seekers may hope that foreign legal aid attorneys from countries that asylum seekers wish to be resettled to might be able to facilitate such resettlement.

Legal aid organisations need to be prepared to respond to such situations when they arise. Existing ethical codes do not address these situations, and there is very little literature on how attorneys should respond when clients express a national preference regarding their attorney; the literature that does exist does not address situations where clients seek attorneys of their own rather than another nationality.

Organisations should adopt a policy of not assigning attorneys to clients on the basis of clients' preferences for foreign attorneys, for the following reasons:

- Clients' preferences for foreign attorneys are unlikely to be well-informed. Foreign attorneys are unlikely to be taken more seriously than a national attorney; they are unlikely to be better able to assure resettlement for their clients; and they do not have access to a 'back door' for resettlement to their own countries.
- National attorneys are likely to be more effective advocates for their clients, facing fewer linguistic

barriers when communicating with clients or when reading client documents.

- A preference for a foreign attorney when a national attorney is equally or more qualified, equally or more able to handle that particular case, or equally or more experienced is unfairly discriminatory. Refugee lawyers should be the last to perpetuate stereotypes.
- In a multinational environment dependent on effective cooperation between national and foreign staff, service providers need to be assured that they are being treated on the basis of their ability – not their nationality.

Legal aid organisations should encourage open discussion with clients about a preference for a foreign attorney. By doing this, the attending attorney can inquire as to why the client is expressing that preference, explain to the client the organisation's policy (and the reasons for that policy), and explain what the client can do if the client is dissatisfied with his or her legal representation. By encouraging the client to communicate his or her concerns openly and responding to them methodically, the attorney may be able to establish a more open and communicative attorney-client relationship.

The organisation's policy on handling client preferences for particular attorneys should be mainstreamed into attorney training and development, for both current and incoming attorneys. A particularly important goal of training should be to encourage national staff not to seek to transfer cases or clients when a client expresses an interest in a foreign attorney. Legal aid supervisors may find it difficult to encourage national staff to take on cases where the clients are perceived as lacking confidence in them but the effectiveness of a policy against discriminating on the basis of national origin also depends on the willingness of national staff to challenge clients' preconceptions.

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### More than just an annual report...

The RSC's latest annual report (for 2011-12) not only provides a round-up of the RSC's activities but also includes several short articles by RSC researchers on: deportation, by Dr Matthew J Gibney; the mobility of Roma in the EU, by Dr Nando Sigona; humanitarian innovation, by Dr Alexander Betts; and the rights of mobile indigenous peoples, by Professor Dawn Chatty.

To request a print copy, please email [rsc@qeh.ox.ac.uk](mailto:rsc@qeh.ox.ac.uk) Read online at

[www.rsc.ox.ac.uk/about-us/annual-reports/](http://www.rsc.ox.ac.uk/about-us/annual-reports/)

### Refugee from inhumanity: Enriching refugee protection standards through recourse to international humanitarian law

11-12 February 2013, Oxford

Convenors: RSC and Refugee Law Initiative, University of London. This expert conference will take stock of recent developments in law and practice, and cultivate new approaches to the topic. Participants will explore the extent to which IHL (and international criminal law) may provide interpretative guidance in the asylum context, and examine the potential of IHL for preventing *refoulement* in situations of armed conflict. Details at [www.rsc.ox.ac.uk/events/events](http://www.rsc.ox.ac.uk/events/events)

### Palestine refugees and international law

15-16 March 2013, Amman, Jordan

Convenors: Professor Dawn Chatty (RSC) and Susan Akram (Boston University). This workshop will examine, within a human rights framework, the policies and practices of Middle Eastern states as they impinge upon Palestinian refugees. Participants will engage with contemporary debates in international law and analyse the specific context of Palestinian refugees in the Middle East. Details at [www.rsc.ox.ac.uk/events/courses](http://www.rsc.ox.ac.uk/events/courses)

### Development-induced displacement and resettlement

22-23 March 2013, Oxford

This post-graduate student-led conference hosted by the Refugee Studies Centre aims to revive discussions on DIDR, facilitating cross-communication between different

stakeholders, disciplines and perspectives, and seeking to bridge research and practice to fill existing knowledge gaps and move DIDR studies forward. Details at [www.didrconference.org/](http://www.didrconference.org/)

### Lived experiences of contemporary membership

11-12 April 2013, Oxford

Convenors: Dr Nando Sigona (RSC), Dr Elaine Chase (OISP) and Vanessa Hughes (COMPAS). This is the first of two international symposia to be held in Oxford in April 2013 and Chicago in October 2013 investigating the relationship between legal status, rights and belonging. This first symposium will investigate the interplay between forms and modes of contemporary membership, migration governance (both immigration and emigration), and the politics of belonging. Details at [www.rsc.ox.ac.uk/events/events](http://www.rsc.ox.ac.uk/events/events)

### International Summer School in Forced Migration

1-19 July 2013, Oxford

The RSC's International Summer School enables people working with refugees and other forced migrants to reflect critically on the forces and institutions that dominate the world of the displaced. The three-week residential course combines the very best of Oxford University's academic excellence with a stimulating and participatory method of critical learning. Aimed at mid-career or senior policymakers and practitioners involved with humanitarian assistance and policy making for forced migrants, plus researchers in forced migration. Details at [www.rsc.ox.ac.uk/study/international-summer-school](http://www.rsc.ox.ac.uk/study/international-summer-school)

### 30th Anniversary Barbara Harrell-Bond Fund

In the RSC's 30th anniversary year, the RSC is launching a 30th Anniversary Barbara Harrell-Bond Fund to:

- endow the Annual Harrell-Bond Lecture in perpetuity
- endow a full scholarship for a Masters candidate from the Global South
- fund bursaries to support practitioners from the Global South to attend the RSC's International Summer School
- sustain and promote our policy and outreach activities

For more information, please visit

[www.rsc.ox.ac.uk/about-us/anniversary-fund](http://www.rsc.ox.ac.uk/about-us/anniversary-fund)

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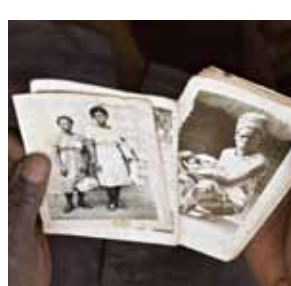
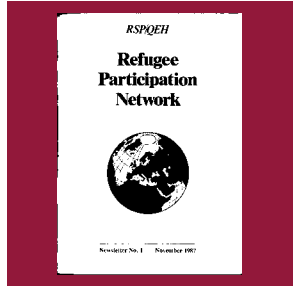
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# FMR's 25th Anniversary

November 2012 saw the 25th anniversary of FMR and its predecessor RPN. To mark the occasion, we are putting together a collection of articles that will look back over 25 years of debate, learning and advocacy for the rights of displaced and stateless people, and consider where we are now – and what the future holds – in relation to many of the themes covered by FMR.

The full collection of articles will build up gradually; later in 2013 we will combine all the articles into a full anniversary issue which will be available online and for downloading.

We would like to thank all those who have read, written for and supported FMR/RPN over the years. We value your collaboration.

Go to [www.fmreview.org/25th-anniversary](http://www.fmreview.org/25th-anniversary) to read the articles published to date.