Divided Nations: The Paradox of National Responsibility

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I. Introduction

In assessing the achievements of the United Nations since its creation, it is worth recalling not only the objectives for which it was established, but also how the pursuit of these objectives has broadened and deepened over the sixty years of the organization's existence to cover areas that were initially only perceived in visionary terms. The United Nations was established in the aftermath of World War II with lofty goals: to save succeeding generations from the scourge of war, "which twice in our lifetime has brought untold sorrow to mankind"; to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and nations large and small; to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained; and to promote social progress and better standards of life in larger freedom. Toward those ends, the founding nations undertook to practice tolerance and live together in peace as good neighbors; to unite "our strength" to maintain international peace and security; to ensure by the acceptance of principles and the institution of methods that armed force shall not be used, save in the common interest; and to employ the international machinery for the promotion of the economic and social advancement of all peoples.[1]

While it is fair to say that the United Nations has been reasonably successful in achieving the goals for which it was created, it is also important to recognize that this success has been incremental. The

United Nations has, of course, succeeded in preventing World War III, and lesser conflicts have been significantly reduced. Initially, however, war was seen largely as an inter-state phenomenon and did not cover internal conflicts, except insofar as they affected other states, which sometimes occurred by proxy during the Cold War. Much progress has also been made in the area of human rights and international humanitarian and development cooperation. Through the U.N., the right of self-determination brought independence from colonial domination to many countries, especially in Africa and Asia. Apartheid in South Africa was eliminated through U.N.-led international pressure. Within the normative framework created by the U.N., the Declaration of Human Rights, the International Bill of Rights, and various treaties have been adopted. While these are positive developments in pursuit of the global consensus behind the overriding goal of human dignity, it should also be borne in mind that until the end of the Cold War, the protection of human rights was very much constrained by a narrow interpretation of national sovereignty as a barricade against international involvement.

An area in which the United Nations has made incremental progress in recent years is the plight of those forcefully displaced *within* their national borders, defined as "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or man-made disasters, and who have not crossed an internationally recognized state border."[2]

This essay addresses the crisis of internal displacement and the response of the United Nations to it, building primarily on the work carried out under my mandate as the Representative of the Secretary-General on Internally Displaced Persons (IDPs) from 1992 to 2004. The article first presents an overview of the problem and the challenge it poses for the international community. It will then discuss the response of the United Nations that led to the creation of the mandate and my appointment as Representative of the Secretary-General. This will be followed by a discussion of the activities carried out under the mandate. The next section will describe the approach I adopted by stipulating sovereignty positively as a concept of state responsibility for its citizens, if need be with the cooperation of the international community. A case is then made for addressing the root causes of internal displacement. The section focusing on Africa considers the action

the African Union (AU) might take to adapt the work of the United Nations in this area to the specific needs of the continent. The essay ends with a restatement of the challenge internal displacement poses, the action taken by the international community to this challenge, and how the AU might build on the work of the U.N. in addressing the crisis on the continent.

II. Overview of the Crisis

Some 25 million persons in over fifty countries are uprooted and forced to flee from their homes or areas of habitual residence (but remain within their national borders) as a result of internal conflicts, communal violence, or egregious violations of human rights. As a consequence of their forced displacement, they are deprived of such essentials of life as shelter, food, medicine, education, community, and a resource base for a self-sustaining livelihood. Worse, internally displaced persons remain within the borders of a country at war with itself, and when they move to safer areas are often viewed as strangers, discriminated against, or harassed. Although entire communities are often affected, those persons who are uprooted from their homes have been shown to be especially vulnerable to physical attack, sexual assault, abduction, disease, and deprivation of basic life necessities. They have also been documented to suffer higher rates of mortality than the general population, sometimes as much as fifty times greater.[3]

While the crisis is global, some regions of the world are more affected than others. By far the worst hit is Africa, with over half of the world's internally displaced population. Sudan is the most affected country in the world, with 4.5 million displaced by the war in the south and nearly two million in Darfur. By 2004, an estimated 1.4 million people had been displaced by conflict in Uganda, and at least 1.5 million in the Democratic Republic of Congo (DRC).[4] Countries that have also been much affected in Africa include Angola, Liberia, Sierra Leone, and Somalia (where the crisis is compounded by state collapse). The problem on the continent, however, is far more pervasive than these examples indicate.

Although the concept of state responsibility to guarantee the protection and general welfare of citizens and all those under state jurisdiction is becoming increasingly accepted in international law, it poses practical problems in countries where groups differentiate themselves on the basis of race, ethnicity, religion, language, or culture. Often, the

most affected are minorities or marginalized groups. In most cases, elements of these marginalized groups are in conflict with the dominant group. Either because they support rebels or dissidents, or are victims by mere association, marginal groups tend to be identified as part of the enemy. Far from being protected and assisted as citizens, they tend to be neglected and even persecuted. Under these circumstances, the value of citizenship is only "on paper," without the enjoyment of the rights normally associated with the dignity of being a citizen. As I have argued elsewhere, marginalization becomes tantamount to statelessness.[5]

Findings from my country missions around the world in my capacity as Representative of the Secretary-General underscore the degree to which the expectation of internal protection by states is for the most part a myth. During these missions, I would meet and dialogue with the authorities, visit the internally displaced for an on-site assessment of their conditions and needs, return to brief the authorities on my findings, and offer preliminary conclusions and recommendations. This typically included asking the displaced persons what messages they wanted me to take back to their leaders. In one Latin American country, the response I got was: "Those are not our leaders. In fact, to them, we are criminals, not citizens, and our only crime is that we are poor." In a Central-Asian country, the response was: "We have no leaders there. None of our people is in that government." In an African country, a senior U.N. official explained to the Prime Minister, who had complained of inadequate support for refugees in his country, that U.N. capacity to assist refugees was constrained by the need to assist "your people," the internally displaced and other war-affected communities. The Prime Minister's response was, "Those are not my people. In fact, the food you give those people is killing my soldiers." These anecdotes highlight the cleavages of identity that often characterize the conflicts that generate internal displacement and the resulting vacuums of responsibility in which IDPs fall.

Far too often these populations are not only dispossessed by their own governments, but are outside the reach of the international community because of the negative approach to sovereignty. While international humanitarian and human rights instruments offer legally binding bases for international protection and assistance to needy populations within their national borders, those people are for the most part at the mercy of their national authorities for their security and general welfare. International access to the internally displaced can

be constrained and even blocked by states in the name of sovereignty. Diplomacy and the art of persuasion can help to tear down the barriers, but, in extreme circumstances, more assertive intervention may be imperative.

III. Genesis of International Response

The plight of the internally displaced emerged into international consciousness in the late 1980s and the early 1990s for reasons connected to the end of the Cold War. Foremost among these reasons was the steady rise in the number of internally displaced persons associated with the increase in internal conflicts. When first counted in 1982, it was estimated that there were 1.2 million internally displaced persons. By 1992, the number had increased to 24 million.[6] Concomitantly, as superpower rivalry came to an end, Western governments' geopolitical advantage in accepting refugees was diminished and their willingness to do so began to wane. This led to a desire to find a way to protect and assist displaced persons in their own countries so as to discourage them from seeking asylum abroad.[7] The end of the Cold War also marked a shift in the international attitude toward intervention in domestic affairs, particularly where states caused, or failed to react to, massive humanitarian crises within their own borders.[8]

During the Cold War, most domestic and regional conflicts were, in one way or another, perceived as part of the proxy confrontation of the superpowers. Similarly, internal or regional crises and their humanitarian consequences used to be managed through the bipolar control mechanisms of the superpowers, who offered effective support to their less capable ideological allies. The outcome of this was that such domestic crises as internal displacement were not visible to the outside world.

With the end of the Cold War and the withdrawal of the strategic interests of the superpowers, these conflicts began to be seen in their proper national or regional contexts. The support of the major powers also disappeared, leaving former allies with significantly reduced capacity for suppressing or managing conflicts or responding to their humanitarian consequences. Consequently, the post-Cold War era witnessed the proliferation of internal conflicts, which have tended to target civilians, including women, children, and the elderly. Without external support, both in the management of conflicts and in address-

ing their humanitarian consequences, governments were confronted with mounting crises they could hardly manage.

Human rights and humanitarian concerns began to replace strategic national interest as the driving norms in international politics. By the same token, human rights, humanitarian, and development organizations began to intensify their activities as the watchdogs of the degree to which universal standards were being adhered to or violated within national borders. To reinforce their capacities for the new responsibilities, NGOs began to receive increased support from the donor community, which saw them as more transparent and credible than governments in meeting the humanitarian needs of the affected populations. Under the pressure of these new developments, the rigid observance of sovereignty as a barricade against international scrutiny began to fall. In the name of human rights and humanitarian concerns, the media spotlight began to focus attention on the human tragedies within state borders. The narrow view of sovereignty became increasingly challenged as the media and non-governmental organizations exposed the plight of millions who fell victim to the new types of wars that were fought internally, with devastating loss of lives, egregious violations of human rights, and dehumanization of the civilian populations.

As a result of these factors, the late 1980s saw the stirrings of an international response to internal displacement. The issue of the reintegration of internally displaced persons figured prominently in two major international conferences at the end of the decade: the 1988 Conference on the Plight of Refugees, Returnees, and Displaced Persons in Southern Africa, and the 1989 International Conference on Central American Refugees.[9] Likewise, in 1989, the UN General Assembly called upon the Secretary-General to consider mechanisms for coordination of relief programs for internally displaced persons.[10] In 1990, the UN Economic and Social Council requested that the Secretary-General initiate a system-wide review of UN entities, with regard to relief and the protection of refugees and the internally displaced.[11]

Importantly, however, "the major impetus behind international recognition of the problem of internal displacement lay with a group of NGOs, mobilized as a result of problems encountered in gaining access in the field to large numbers of 'internal refugees' who were in need of assistance and protection."[12] They set in motion a process that eventually resulted in the United Nations becoming actively seized with the issue of internal displacement.[13] After considering and reject-

ing various avenues within the U.N., they decided to approach the Commission on Human Rights as the forum most accessible for NGOs. The issue was then raised at a meeting of diplomats and NGOs during the 1991 session of the Commission and won the support of Austria, which introduced a draft resolution on internally displaced persons based on that statement.[14]

The resolution called upon the Secretary-General to prepare "an analytic report on internally displaced persons."[15] The resulting report of the Secretary-General concluded that there was "no clear statement of the human rights of internally displaced persons, or those at risk of becoming displaced" and recommended the elaboration of guidelines which "would consist, at least in part, of clarifying the implications of existing human rights law for persons who are internally displaced and fashioning from existing standards one comprehensive, universally applicable body of principles which addressed the main needs and problems of such persons."[16]

The report further recommended the creation of a "focal point within the human rights system" to facilitate the coordination of the U.N. response to internal displacement.[17] In response to this report, Austria introduced a draft resolution to call for a comprehensive study "identifying existing laws and mechanisms for the protection of internally displaced persons, possible additional new measures to strengthen implementation of these laws and mechanisms and alternatives for addressing protection needs not adequately covered by existing instruments."[18] The establishment of a focal point was also an important point of the resolution. As noted in the Secretary-General's report, various parties had recommended mechanisms ranging from a working group to a "world court" on the rights of the internally displaced.[19] However, many states' concerns for encroachment upon their sovereignty rendered such options unacceptable. The initial draft of the resolution asked for the designation of an "independent expert," but in response to India's preference that the mandate remain with the Secretary-General, the final version was changed to call upon the Secretary-General to "designate a representative" to seek the views of governments, United Nations agencies, regional and non-governmental organizations, and experts to perform the requested task.[20] In July 1992, the then Secretary-General Boutrous Boutrous-Ghali designated me as the representative.

IV. Stipulating Sovereignty as Responsibility

The fundamental norm of "Sovereignty as Responsibility" that has guided my work on internal displacement is, in significant part, the result of post-Cold War developments. As the Cold War era was beginning to unravel, it became necessary to speculate on the implications of the emerging new order for perceptions of national and regional conflicts. It was obvious that these conflicts would no longer be viewed in the context of the proxy confrontation between the superpowers. But what new conceptual framework would influence response to these conflicts in the post-Cold War era? I was involved in two initiatives that would help shape my perspective on the emerging challenge. One was the development of an African Studies Project of the Foreign Policy Studies Program at the Brookings Institution. The other was participating in the initiative of the then former Head of State of Nigeria and now the twice-elected President, Olusegun Obasanjo, toward a Helsinki-like Conference on Security, Stability, Development, and Cooperation in Africa (CSSDCA).

Our Brookings Africa Project began with a conference that made an overall assessment of conflicts in Africa and the challenges of the post-Cold War era. The conference papers were edited and published by Brookings under the title *Conflict Resolution in Africa.*[21] Following the publication of the papers, we undertook national and regional case studies to deepen our understanding of the issues involved. Several publications resulted from these studies.[22] A synthesis of these case studies led to the main conclusion: As conflicts become internal, they also primarily become the responsibility of governments to prevent, manage, and resolve. Governance was perceived primarily as conflict management. State sovereignty was then postulated as entailing the responsibility of conflict management. Indeed, the concluding volume in the African series at Brookings was titled *Sovereignty as Responsibility.* The envisaged responsibility involved managing diversity; ensuring equitable distribution of wealth, services, and development opportunities; and participating effectively in regional and international arrangements for peace, security, and stability. A subsequent volume, *African Reckoning*, tried to put more flesh on the skeleton of the responsibilities of sovereignty, building largely on human rights and humanitarian norms and international accountability.[23] Since internal conflicts often spill across international borders, their consequences also cross borders, threatening regional security and stability. In the

"apportionment" of responsibilities in the post-Cold War era, regional organizations become the second layer of the needed response. And yet the international community remains the residual guarantor of universal human rights and humanitarian standards in the quest for global peace and security.

The development of the Helsinki process for Africa was motivated by the concern that the post-Cold War global order was likely to result in the withdrawal of the major powers and the marginalization of Africa. It was, therefore, imperative for Africa to both take charge of its destiny and to observe principles that would appeal to the West and thereby provide a sound foundation for a mutually agreeable partnership. This was found in the Helsinki framework of the Economic and Security Cooperation in Europe (ESCE), which became the Organization for Security and Cooperation in Europe (OSCE). A series of meetings culminated in the 1991 Conference in Kampala, Uganda, which was attended by some 500 people, including several heads of state and representatives from all walks of life. The conference produced the *Kampala Document*, which elaborated upon the four "*calabashes*," so termed to distinguish them from the OSCE "baskets," and give them an African orientation. The *calabashes* are security, stability, development, and cooperation. The adoption of the CSSDCA by the Organization of African Unity was initially blocked by a few governments that felt threatened by its normative principles. When Obasanjo returned to power as the elected President of Nigeria, he was able to push successfully for the incorporation of CSSDCA into the OAU mechanism for conflict prevention, management, and resolution.[24]

In connection with these initiatives, I began to focus attention on promoting the need to balance conventional notions of sovereignty with the responsibility of the state to provide for the protection and general welfare of citizens and all those under state jurisdiction.[25] Given the sensitivity of the mandate on internal displacement, I concluded that the way to bridge between the need for international protection and assistance for the internally displaced and the barricades of the negative approach to sovereignty was to build on the fundamental norm of sovereignty as a *positive* concept of state responsibility toward its citizens and those under its jurisdiction. In my own experience, this approach has been quite effective in the dialogue with governments. On all the missions I undertook to countries around the world, no government authority has ever argued, "I don't care how irresponsible

or irresponsive we are, this is an internal matter and none of your business."

The principle of sovereignty as responsibility has been strengthened and mainstreamed by the Canadian-sponsored Commission on Intervention and State Sovereignty.[26] In a book on the work of my mandate, Thomas G. Weiss and David A. Korn traced the development of the principle from what they called the "Brookings doctrine" of the Africa Project, its application to the IDP mandate, and its endorsement and elaboration by the International Committee on Intervention and the Responsibility to Protect. The commission's final report, the authors note, "open[s] with words that could have come from Deng's pen:"

> State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-interference yields to the international responsibility to protect.[27]

The authors, one of whom led the Secretariat of the Commission, note further that "although the commission never formally acknowledged the parentage of the 'responsibility to protect,' a paraphrase of sovereignty as responsibility…among individual commissioners and staff, there are individuals who are aware of the connection." Furthermore, they quote former Canadian Foreign Minister Lloyd Axworthy, who was responsible for the establishment of the Commission: "The first time I heard the notion of 'responsibility to protect' was when Deng visited me in Ottawa and argued for a clear commitment by the international community to deal with the IDP issue."[28] In a paper entitled, "Sovereignty as Responsibility," Amitai Etzioni discusses the work of the Brookings Africa Project, which lay the foundation for the approach I adopted for my mandate:

> Francis Deng and associates at the Brookings Institute published a book in 1996 challenging what had been the key principle of international relations since the signing of the treaty of Westphalia in 1648: that sovereign states are not to interfere in one another's internal affairs. Their book, *Sovereignty as Responsibility: Conflict Management in Africa*, argues that when nations do not conduct their internal affairs in ways that meet internationally recognized standards, other nations not only have the right, but also have a duty, to intervene. Deng et al. propose that those

> governments that do not fulfill their responsibilities to their people forfeit their sovereignty. In effect, the authors redefine sovereignty as the responsibility to protect the people in a given territory.[29]

Noting that the International Commission on Intervention and State Sovereignty and the Secretary-General's High-Level Panel on Threats, Challenges and Change "affirmed Deng et al.'s proposals," Etzioni added, "Deng et al. realized that the sovereignty-as-responsibility principle was not observed as a universal doctrine but held that it is becoming increasingly recognized as the centerpiece of sovereignty."[30] In his view, "A concept of sovereignty as responsibility that includes both the duty to protect and the duty to prevent has broad appeal across the political spectrum. Progressives can support the assertion that nations have a duty to intervene in failing or authoritarian states on humanitarian grounds, while neoconservatives hold that intervention in such states is necessary to preserve national and international security."[31] Etzioni concludes with this appraisal: "The new conception of sovereignty as responsibility is a telling sign of the new, shared moral understandings. In the long run, all this points to the normative theses that ultimately the only sovereign that can provide the final authorization for acts of coercion is the people of the world, the so-called international community, not those of one nation or the other or even a grouping of such nations."[32]

The principle has continued to gain wide support from the international community. As the U.N. prepared for its 60th-anniversary celebration, the Secretary-General pleaded that, "we must embrace the responsibility to protect."[33] The World Summit of Heads of State and Government, which convened in New York in September 2005, "stressed the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity."[34] Former High Commissioner for Refugees, Sadako Ogata, in a foreward to Weiss and Korn's book on the work of my mandate, wrote that the book "explores 'sovereignty as responsibility'" which she describes as "the most powerful idea that has emerged in the international arena in the last decade. Evolving rapidly from a humanitarian issue, the question of internally displaced persons (IDPs) came to challenge state sovereignty as the founding principle of international relations."[35]

The challenge that postulating sovereignty as responsibility poses for the international community is that it implies accountability. Obvi-

ously, the internally displaced themselves—marginalized, excluded, often persecuted—have little capacity to hold their national authorities accountable. Only the international community, including sub-regional, regional, and international organizations, has the leverage and clout to persuade governments and other concerned actors to discharge their responsibility or otherwise fill the vacuum of irresponsible or unresponsive sovereignty. Often, the fact is that governments of affected countries, even if they wanted to discharge the responsibility of assisting and protecting their needy populations, lack the resources and the capacity to do so. Offering them support in a way that links humanitarian assistance with protection in a holistic, integrated approach to human rights should make the case more compelling. No government deserving any legitimacy can request material assistance from the outside world and reject concern for the human rights of the people on whose behalf it requests assistance. Doing so would be like asking the international community to feed them without ensuring their safety and dignity. Now that the standard has been set, the focus of the international community should shift to the need for implementation.

V. Activities of the Mandate

Over the years, the role of the mandate crystallized into raising the level of awareness about the displacement crisis worldwide and acting as a catalyst for an international response. Specifically, the activities of the mandate focus on several pillars. They include developing an appropriate normative framework for responding to the protection and assistance needs of the internally displaced; fostering effective institutional arrangements at the international and regional levels to these same ends; focusing attention on specific situations through country missions; cooperating with regional and civil society organizations; and undertaking further research to broaden and deepen understanding of the problem in its various dimensions.

A. Developing a Normative Framework

Soon after my appointment, I circulated a questionnaire and engaged in extensive consultations with states and other interested parties, both within and outside the U.N. framework, eliciting in particular the support of legal scholars at Harvard and Yale to assist in identifying existing legal rights. My comprehensive study was presented to

the Commission in 1993.[36] The study concluded that, with the exception of some important gaps, existing international law provided wide coverage for the protection needs of internally displaced persons.[37] The principal problem lay not only in the lack of implementation, but also in the fact that the existing protections were spread out in a wide variety of instruments, and not focused on the needs of the internally displaced.

The study noted that a new legal instrument specifically addressing the needs of internally displaced persons might both bridge the gaps in the existing normative framework and encourage greater compliance. However, the urgent need for international guidance required the development during a "transitional phase" of an initial, non-binding set of principles to "focus international attention, raise the level of awareness and stimulate practical measures for alleviating the crisis." At that time, a process involving three steps was envisaged for the transitional phase: a compilation of existing law, the drafting of "guiding principles" as an informal code of conduct, and finally an authoritative legal document, perhaps in the form of a declaration. Given the urgency of the need, I suggested that those steps might be pursued simultaneously.

In response to the report, the Commission adopted a resolution specifically noting my recommendations for the compilation of existing legal norms and developing guiding principles, "taking note with appreciation" of my study generally "and of the useful suggestions and recommendations contained therein," and calling upon the Secretary-General to extend my mandate for two years.[38] In partnership with Roberta Cohen, I convened a series of meetings in collaboration with the American Society of International Law and the Human Rights Law Group in Washington (under the auspices of the Brookings Institution and in collaboration with international legal experts) to assist in the compilation of existing law and to develop guiding principles. (Roberta Cohen is a human rights expert and activist whom we had invited to join the Africa Studies Project at Brookings to assist with the IDP work and who became Associate Director and then Co-Director of the Brookings Project on Internal Displacement.) Professor Robert Goldman of the American University Law School became a critical legal partner. The team was soon joined by Manfred Nowak of the Boltsman Institute in Vienna, Austria. Goldman and Nowak oversaw the work of researchers in their respective institutions toward the completed standards in human rights law, humanitarian law, and analo-

gous refugee law pertinent to the needs of the internally displaced. The task of bridging the gaps between the differing approaches of the two teams was accomplished largely through the genius of Walter Kalin of the University of Bern in Switzerland, who chaired the meetings of the legal team.

Out of this process emerged what became known as the "Compilation and Analysis," consisting of two complementary parts or phases. The first examined international law applicable to persons who had already been displaced, and was presented to the Commission in 1996.[39] The second focused on protections against displacement in the first instance and was presented in 1998.[40] Both studies concluded, as with the 1992 report, that existing law theoretically provided wide coverage of the protection needs of the internally displaced, but that grey areas and gaps existed, which needed to be remedied. Moreover, the existing standards were dispersed in a number of different instruments without specific focus on the internally displaced.

In response to the first part of the Compilation, the Commission adopted a resolution in 1996 directing me to "continue, on the basis of [the] compilation and analysis of legal norms, to develop an appropriate framework in this regard for the protection of internally displaced persons."[41] It should be noted in this respect that there was a subtle resistance to the development of a legal instrument. In the informal consultations, the term "normative framework" was suggested, but some states objected that it implied "legal." The formulation of an "appropriate framework" was therefore considered less controversial. Yet everyone knew that what was meant was a legal framework.

While the second part of the study was underway, we began to work on an appropriate framework without worrying about how it would eventually be labeled or whether it would be a declaration, a convention, a code of conduct, or only a set of guidelines. Once again, we engaged in extensive consultations, now consistently chaired by Walter Kalin, with representatives of various U.N. agencies, NGOs, and other interested actors, in particular through a series of consultative meetings which brought in not only the substantive input of the various parties but also encouraged their commitment to the success and acceptance of the eventual product.[42] Of particular importance was reaching out to and addressing the concerns of the International Committee of the Red Cross (ICRC). It had warned about the possibility that new guidelines might weaken the standing and application of existing humanitarian laws. The participation of ICRC in the process

became one of the most significant elements in the development of the Guiding Principles.[43]

As we were finalizing the framework in a meeting of the expert team, we decided by spontaneous consensus that although (in my 1992 report to the Commission) I had raised the possibility of seeking a declaration or even a legal instrument, we should instead concentrate on presenting the framework as a set of nonbinding principles. In doing so, we were guided in part by the concerns of the ICRC about the negative potential of reopening the door on already accepted rights, thereby undermining them, and also by the desire to avoid the delays inherent in state negotiations on such a potentially contentious issue in light of the urgent need for action on the ground.[44]

The resulting Guiding Principles on Internal Displacement restate, interpret, and apply standards from human rights, humanitarian, and analogous refugee law.[45] They are divided into four sections, addressing protection against displacement; protection and assistance during displacement; access to humanitarian assistance; and return, resettlement, and reintegration. The Guiding Principles apply not only to states, but also to "all other authorities, groups and persons in their relations with internally displaced persons."[46] This included non-state actors, intergovernmental and non-governmental organizations, and internally displaced persons themselves. Underlying the Guiding Principles is the fundamental notion that the primary responsibility for ensuring the protection and assistance of internally displaced persons resides with states as an aspect of their sovereignty. Should they fail to discharge their responsibility for lack of capacity or will, the international community has the right and the responsibility to intervene.

It is, however, important to underscore the role of non-state actors. In conflict situations, rebel movements (in contradistinction to states) often control sizeable territories and populations, and engage in egregious violations of human rights. Holding non-state actors accountable means engaging them in a constructive dialogue, which should not be construed as recognition or conferring legitimacy. Governments must accept such engagement if they are to hold non-state actors responsible for human rights violations.

The draft principles were finalized at an expert consultation, hosted by the Government in Vienna in January 1998, and attended by representatives of the U.N. agencies, non-governmental organizations, and regional organizations. Following the consultation, we held a strategic meeting with our core team on how to approach the Commission. The

plan agreed upon was that we should not aim for formal adoption by the Commission, which was bound to be controversial, but should instead have the Principles acknowledged. The Austrian draft resolution for the Commission did just that.

Soon after they were finalized and before they were presented to the Commission, I shared the Guiding Principles with the Inter-Agency Standing Committee (IASC), a forum created in 1991 to enhance coordination among the agencies. Under the chairmanship of the then Under Secretary-General for Humanitarian Affairs, Sergio Vieira de Mello, the IASC adopted a decision at its March 1998 meeting. It welcomed the Guiding Principles and encouraged its members to share them with their executive boards and staff, especially those in the field, and to apply them in their activities on behalf of internally displaced persons.

The momentum of the IASC decision provided important support for the reception of the Guiding Principles at the Commission several weeks later. Despite years of resolutions encouraging me to proceed with the development of an "appropriate" framework, consultations by the Austrians about the relevant draft resolution "taking note" of the Principles indicated that a number of states were still fearful about potential encroachment on their national sovereignty. In the end, however, only the representative of Mexico expressed reservations about the manner in which the Principles had been developed, but even he voted for the resolution. Essentially, the resolution took note of the Guiding Principles and my intention to use them in dialogues with governments and inter-governmental and non-governmental organizations, as well as the prior decision of the IASC to make use of them.[47]

Since their presentation to the Commission on Human Rights in 1998, the Guiding Principles have been acknowledged widely by U.N. bodies. The U.N. Secretary-General has cited them as a major achievement in the humanitarian area.[48] He recommended to the Security Council that in cases of massive displacement, it should encourage states to be guided by the Principles.[49] The Council has indeed begun to refer to them in regard to specific situations.[50] The General Assembly and the Commission on Human Rights requested that I make use of the Principles in my dialogues with governments, inter-governmental organizations, and NGOs.[51]

The Brookings Project on Internal Displacement, together with the U.N. Office for the Coordination of Humanitarian Affairs (OCHA) and the IASC, has produced two additional publications on the Guiding

Principles, *Handbook for Applying the Guiding Principles* and *Manual on Field Practice in Internal Displacement*.[52] These documents spell out the Guiding Principles in more understandable language and explain their practical application in the field. Furthermore, the Brookings Project, in collaboration with the American Society of International Law, has produced Professor Walter Kalin's *Annotations* on the Guiding Principles, which explain their sources in human rights law, humanitarian law, and analogous refugee law.[53]

The General Assembly and the Commission encouraged the wide dissemination and application of the Principles by international, regional, and non-governmental organizations. Several regional organizations, among them the Organization of African Unity (now the African Union), the Inter-American Commission on Human Rights of the Organization of American States, and the Organization for Security and Cooperation in Europe (OSCE), have indeed begun to disseminate the Principles, to use them as a basis for measuring conditions on the ground, and to sponsor workshops featuring them. In October 1998, the OAU co-sponsored with the U.N. High Commissioner for Refugees (UNHCR) and the Brookings Project a workshop on Internal Displacement in Africa. Subsequent workshops were held in Bogotá, Colombia, in May 1999; Bangkok, Thailand, in February 2000; Tbilisi, Georgia, in May 2000 (in cooperation with the OSCE); Jakarta, Indonesia, in June 2001; Yerevan, Armenia, in October 2001; Tbilisi, Georgia, in February 2002; and Baku, Azerbaijan, in February 2002. A number of additional country and sub-regional workshops have since followed. In addition, NGOs, such as the Norwegian Refugee Council, have held training workshops on the Guiding Principles in Burundi, Colombia, India, Liberia, and Sierra Leone. Following the workshops, projects are undertaken to help strengthen local capacities, with the support of partner organizations.

To assist in the promotion, dissemination, and application of the Guiding Principles at the national level, and indicative of their increasing use and relevance in different parts of the world, the Principles continue to be translated into a multitude of languages. Initially made available in all the official languages of the U.N. (Arabic, Chinese, English, French, Russian, and Spanish) for their submission to the Commission in 1998, the Principles have since been translated into many local languages relevant to particular situations of internal displacement (Abkhaz, Albanian, Armenian, Assamese, Azeri, Bahasa Indonesia, Bengali, Burmese, Cebuano, Chin, Dari, Dinka, Georgian, Hausa,

Kirundi, Kurdish, Luo, Macedonian, Maguindanaon, Mandarin, Nepali, Nuer, Pashtu, Portuguese, Rutoro, Serbo-Croatian, Serbo-Croatian Cyrillic, Sgaw Karen, Sinhala, Somali, Swahili, Tagalog, Tamil, Tetum, Thai, Turkish, Urdu, and Yoruba). Efforts to translate and publish the Principles have been undertaken at the initiative of a variety of actors—the U.N. and its agencies, international and local NGOs, and governments, often working in partnership.

At a colloquy on the Guiding Principles convened in collaboration with the government of Austria in Vienna, September 2000, national NGOs throughout the world reported on their use of the Principles in their dialogue with local and national authorities.[54] Regional intergovernmental organizations also cited the Principles as an effective protection tool; and in Asia, national human rights commissions acknowledged the utility of the Guiding Principles, both in their monitoring activities and in advising government officials and legislators on the content of draft legislation. Furthermore, the Principles have been cited by U.N. treaty bodies in their interpretation of the law relevant to internally displaced populations.

Governments also have found the Guiding Principles a useful guide for the development of laws on internal displacement and as a yardstick for measuring conditions in their countries. In Angola, for example, the Principles form the basis of the Norms on the Resettlement of the Internally Displaced, and in Burundi they have been used as the foundation of a permanent framework for the protection of internally displaced persons. In Colombia, a Presidential Directive of November 2001 recalls two decisions of the Constitutional Court citing the Guiding Principles, and elaborating the responsibilities of government authorities for protecting and assisting the internally displaced. The government of Georgia informed the U.N. that it is committed, through a special parliamentary commission, to bringing its electoral laws in line with the Guiding Principles. The Ugandan government also developed a national policy for IDPs and an implementation plan, both of which draw heavily on the Guiding Principles on Internal Displacement. In the Sudan, even before the Comprehensive Peace Agreement (CPA) was concluded, the Government and the Sudan People's Liberation Movement adopted a joint policy on IDPs based on the Principles.

It must be said that a small number of governments questioned the innovative process by which the Guiding Principles were developed. At the July 2000 session of the U.N.'s Economic and Social Council

(ECOSOC), these governments expressed the view that principles not drafted or formally adopted by governments cannot have real standing. In the Third Committee of the General Assembly of 2000, the same group of governments tried to prevent the reference to the Guiding Principles in an "omnibus" resolution on the work of the UNHCR, despite the fact that such reference had been part of the resolution adopted unanimously by the General Assembly for the preceding two years. In the end, at the insistence of Egypt, the resolution was voted on and adopted by a majority of 118, with none against and thirty abstentions. The same governments raised similar concerns during the 2001 General Assembly and argued for the submission of the Guiding Principles to the General Assembly for formal consideration. After intensive and extensive consultations, the resolution on internal displacement was adopted by consensus.[55] In collaboration with the U.N.'s Emergency Relief Coordinator (ERC), who is also the Under Secretary-General for Humanitarian Affairs and the Head of OCHA, we conducted informal consultations with these and other delegations to promote understanding and develop a common ground on the Guiding Principles. As a result, a broader consensus has developed in support of the Guiding Principles.

Ironically, the governments that expressed reservations had voted for the Commission and General Assembly resolutions encouraging the development of the Guiding Principles over the years, recommending their wide dissemination and requesting me to use them as the basis for dialogue with governments. The outcome of the vote itself testifies to the increasing recognition the Guiding Principles are receiving, which in turn reaffirms that they indeed fill a normative vacuum.

Now that the normative ground has been well established by the Guiding Principles, it is time to shift attention toward implementation to provide protection and assistance to the internally displaced. As part of the focus of implementation, it is important to effectively mobilize non-governmental organizations and civil society generally as the watchdogs of protection and assistance for IDPs and other war affected populations.

B. Developing Institutional Arrangements

As was the case with the legal framework, the gaps in the international system relating to the internally displaced were obvious. Again, in contrast with *refugees*, for whom the UNHCR has responsibility for their

protection and assistance, there is no one specialized agency for the *internally displaced*. In my first report to the Commission, I suggested a number of institutional options: the creation of a specialized agency for the internally displaced; the designation of an existing agency to assume full responsibility for them; and a collaborative arrangement that would utilize existing capacities and enhance the effectiveness of the international system.

It soon became clear that there was no political will in the international community to create a new agency for the internally displaced. Designating a single agency to assume full responsibility for them is an idea that resurfaces periodically, as it did again in January 2000, when U.S. Ambassador Richard Holbrooke made that proposal while serving as President of the Security Council. However, a broad consensus emerged that the problem is too big for one agency and requires the collaborative capacities of the international system.

Nevertheless, there is a need to strengthen the collaborative approach to overcome the challenging problems of coordination and response gaps that frequently arise under the present arrangement, especially in the realm of protection. The 1997 Secretary-General's reform program drew special attention to the gaps in the international system in responding to the protection and assistance needs of the internally displaced and gave the Emergency Relief Coordinator (ERC) the responsibility for ensuring that these needs are addressed adequately within the U.N.'s interagency framework.[56]

In an effort to focus greater attention on the protection of internally displaced persons, I consulted the ERC and the U.N. High Commissioner for Human Rights about what exactly was meant by protection and whose responsibility it was to provide it. We agreed that it would be useful to draft a joint policy paper on what precisely protection meant and how it might be ensured by the international system. The resulting paper, adopted by the IASC in December 1999, notes the need to give practical effect to the responsibilities of international agencies in regard to protection as a principle of security, physical integrity, and respect for human rights. The paper sets out a number of strategic areas of activity through which the international community can fulfill those responsibilities. These include: promotion and dissemination of the Guiding Principles; active and assertive advocacy for the rights of the internally displaced; strengthening local and national protection capacities; promoting protection in the design of assistance programs,

including those regarding return or resettlement and reintegration; and operational monitoring and reporting.[57]

The IASC also adopted supplementary guidance to U.N. resident and humanitarian coordinators to facilitate their protection and assistance responsibilities. The resident and humanitarian coordinators are responsible for coordinating the U.N. response to both the protection and assistance needs of the internally displaced in a given country, and for ensuring that response gaps are addressed systematically.[58] The IASC subsequently appointed a Special Coordinator to lead an Inter-Agency Network to examine situations of internal displacement with a view to ensuring both an effective response to the protection and assistance needs and an appropriate coordination mechanism.

In April 2001, the Special Coordinator issued a report on the activities and findings of the Network. The report found that the U.N., international organizations, and non-governmental organizations all need to increase their focus on, and support to, internally displaced persons. To ensure increased focus, the Special Coordinator recommended the establishment of a non-operational internally displaced persons unit within OCHA. Based on that recommendation, the Emergency Relief Coordinator proposed to the Secretary-General the establishment of such a unit. The proposal was endorsed by the Secretary-General, and the unit became operational as of January 2002. Following a critical evaluation of its work two years later, the unit was transformed into a Division at OCHA in 2004, headed by a senior person with a background in protection at UNHCR. More recently, the idea of a lead agency appears to have gained ground, with UNHCR as the preferred agency for the task.

C. Country Missions

Country missions were the most tangible means for assessing both the conditions on the ground and the effectiveness of the national and international response to specific situations. In addition to country conferences, workshops, and related activities in a number of countries, I undertook twenty-eight official country missions.[59] These missions offered the opportunity for dialogue with governments and other concerned actors on ways to improve the conditions of the internally displaced by bridging the gap between principles of protection and assistance and the actual conditions of the displaced on the ground. They also helped advance understanding of the generic problems of

internal displacement and the responses needed to alleviate the dire conditions to which the displaced often were subjected.

Country missions, ironically, also raised the stakes involved in the needed response. Merely undertaking a mission conveyed to the displaced populations that the international community cared about their plight. Although one should not promise too much in meetings with them, it was inevitable that it gave them hope for international cooperation with their government to address their needs. Yet, unless these missions in fact resulted in improved responses to their needs, their hope could turn to despair and leave them worse off than they were before the mission. That was why I pleaded with all concerned, both national and international actors, to do what was within their capacity to respond to the needs of the displaced and prove to them that the world genuinely cared about their plight.

Out of the twenty-eight missions I undertook, twelve were to African countries. In the order in which the missions were undertaken, these included: Somalia, visited at the peak of the crisis in 1992; Sudan, the country with the largest number of IDPs in the world, first visited in 1992, with four subsequent follow-up missions including in 2004 to Darfur; Burundi, first in 1994, with a subsequent follow-up mission in 2001, in response to the polices of forced relocation; Rwanda in 1995 in the immediate aftermath of the genocide; Mozambique in 1997 following the end of the war and amidst massive returns of IDPs to areas of origin; Angola, in 2001, where large populations were still displaced because of Jonas Savimbi's breach of the peace accord; and Uganda, 2004, where the Acholi people of the northern region were devastated by the activities of the Lords Resistance Army (LRA).

Closely connected with country missions are national and regional workshops on internal displacement, which always offer opportunities for discussions with the authorities. Out of the seventeen such workshops and seminars conducted around the world, five were in Africa: Workshop on Internal Displacement in October 1998, in Addis Ababa, Ethiopia, cosponsored by The Brookings Institution, UNHCR, and the Organization of African Unity; Workshop on International Migration in West Africa, in October 2002, in Senegal, co-sponsored by the Economic Community of West African Countries (ECOWAS)) with the assistance of participation of the Brookings-SAIS project; Seminar on Internal Displacement, in November 2002, in Rumbek, southern Sudan, cosponsored by Brookings-SAIS Project on Internal Displacement and UNICEF; Conference on Internal Displacement, held in

August–September, 2003, in Khartoum, Sudan in the IGAD sub-region, cosponsored by the Brookings-SAIS Project and the UN Office for the Coordination of Humanitarian Affairs, IDP Unit, in collaboration with the Inter-governmental Authority for Development (IGAD) and hosted by the Government of the Sudan; and Seminar on Internal Displacement in the South African Development Community (SADC) Region, held in August 2005, in Gaborone, Botswana, cosponsored by the Brookings-Bern Project on Internal Displacement, Representative of the UN Secretary-General on the Human Rights of IDPs (Walter Kalin), UNHCR, and hosted by the Government of Botswana.

D. Levels of International Cooperation

An important aspect of our work is the linkage of various levels of international cooperation and action. When we remember that the problem is inherently internal, then the distance between global concerns and local conditions becomes obvious. Working through regional organizations and local communities down to the ground level is crucial. The Internal Displacement Project not only conducts and commissions research on various aspects of the problem, but also organizes seminars at the national and regional levels, and cooperates with community leaders, research institutions, academicians, and other experts around the world. In addition, the Project has assisted the work of the IDP mandate in forging cooperation with regional organizations.

The need for regional cooperation emanates from the fact that these problems usually spill over the borders. Therefore, the problems of one country become shared by the region. By the same token, there is a mutual interest on the part of governments to work together in addressing their problems cooperatively. Over the years and as noted earlier with respect to the promotion of the Guiding Principles, the Project has forged relationships with regional organizations around the world, including the Commonwealth, the Council of Europe (COE), the Economic Community of West African States (ECOWAS), the Inter-Governmental Authority on Development (IGAD), the Organization of African Unity (OAU, now the African Union (AU)), the Organization of American States (OAS), and the Organization for Security and Cooperation in Europe (OSCE).

We have also found that it is important to see IDPs not just as victims of humanitarian crises, but as citizens with rights, who are capable of resourcefully responding to their situation. With the development of

the Guiding Principles and institutional arrangements, there is a need to empower the IDPs to themselves appreciate their rights and demand protection and assistance from their governments and to appeal to the outside world to step in when their own governments fail to provide them. The Guiding Principles are proving to be significant in turning what would be an expectation of welfare to demands of rights by IDPs. Ensuring that IDPs can access and use the Guiding Principles is one of the reasons why they have been translated into many languages.

E. A Research Agenda

Finally, as part of the mandate, we conducted studies on internal displacement. Apart from my first book, *Protecting the Dispossessed: A Challenge to the International Community*, which was a revised version of my first report to the Commission on Human Rights, the most significant of these studies was the comprehensive study, composed of two volumes, *Masses in Flight: The Global Crisis of Internal Displacement* and *The Forsaken People: Case Studies of the Internally Displaced*, co-authored and co-edited, respectively, with Roberta Cohen and published by the Brookings Institution in 1998.[60] An illustrated abridged version of these two volumes, entitled *Exodus Within Borders: An Introduction to the Crisis of Internal Displacement*, was also published by Brookings in 1999. The objective of the study was to probe such issues as the numbers and distribution of internally displaced persons globally, their needs, how these needs were being met, what gaps existed in meeting those needs, and how these gaps could be bridged by the international community, including regional organizations and NGOs. In particular, the study identifies the tremendous gap in the area of protection and made a series of recommendations for increasing attention to the physical security and human rights of displaced populations. It was our hope that the study would contribute to a more in-depth understanding of the global crisis of internal displacement, and of the steps needed to address it. Indeed, the response we received indicated that the study has achieved much of our intended objective. In addition, the project has produced numerous publications over the years on various aspects of the displacement crisis worldwide.

VI. Addressing the Root Causes

In my statements on the crisis of internal displacement, including during my country missions, and in my reports to various organs of the U.N. system, I always ended by seeing the crisis as offering opportunities to address the root causes of internal displacement. Displacement is only a symptom of the causes reflected mostly in conflicts and human rights violations, which are themselves symptoms of deeper rooted problems, embodied in diversities characterized by acute disparities or inequalities in the shaping and sharing of power, national wealth, public services, and development opportunities. As noted earlier, discrimination on the basis of race, ethnicity, religion, culture, or gender means that there are those who are "in," enjoying the dignity of full citizenship, and those who are "out," marginalized to the point of virtual statelessness. Unless these inequities are affirmatively addressed, these countries will have a hard time achieving peace, security, stability, and development.

Ironically, while conflicts, displacement, and the resulting violations of human rights and humanitarian standards are rooted in gross inequities, displacement itself exposes the disadvantaged to conditions in the more privileged areas, which sharpen even more the citizens' realization of their marginalization. Even if peace is achieved and the displaced are able to return to their areas of origin, they cannot be expected to go back to the prior conditions of dire poverty and lack of essential services, employment opportunities, and prospects for economic, social, and cultural development. Not only should they be guaranteed safe return, they also need to be provided with assistance for their general welfare and sustainable development.

It is necessary to see both the problem and the response holistically. Internal displacement challenges the international community with the need to develop ways of preventing the arbitrary displacement of populations, responding to the protection and assistance needs of those already displaced, and finding durable solutions in the form of safe return with dignity, alternative resettlement, and social reintegration and development. Beyond that, it requires addressing the root causes in order to create the conditions for a just peace, security, stability, and development. This would, in turn, prevent or discourage displacement. In other words, internal displacement is not only a humanitarian and human rights crisis, it is also a political and security issue—a challenge to nation-building.

Displacement often exposes affected rural populations to the opportunities enjoyed by citizens in urban centers, which they have heretofore been denied. It can have the effect of increasing their resentment and hostility. Unless effectively remedied, this may sow the seeds of further conflict in the country. Indeed, the crisis of displacement should be seen as a wake-up call and an opportunity for addressing the deeper, structural ills of the country to forge a national common ground and collective vision for nation building.

This requires creating an environment in which all citizens feel a sense of belonging on equal footing—an environment in which their human rights and fundamental liberties are respected without discrimination on the grounds of race, national origin, ethnicity, religion, culture, gender, or other grounds, and in which the state will respond effectively to their needs for protection and humanitarian assistance, and in which, in the end, they are guaranteed lasting solutions to return to their homes or are resettled and assisted with resuming self-reliant and integrated development.

VII. Developing an AU Framework

The principles enshrined in the 2000 Constitutive Act of the African Union include the protection of internally displaced persons. The Act calls for the protection of human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights. The institutions established consequently (the AU and the African Commission on Human and Peoples' Rights) seek to strengthen African states' responses to displacement at the regional and sub-regional levels.[61] Moreover, the Union's legal framework, which permits intervention in cases of war crimes, genocide, and crimes against humanity, is more compatible than that of the OAU in responding to internal conflicts and the resulting displacement. In May 2004, the African Commission appointed a Special Rapporteur on Refugees, Asylum Seekers and Internally Displaced Persons in Africa. Mr Bahame Tom Nyanduga, the Special Rapporteur, is mandated to investigate situations of internal displacement and improve protection mechanisms for internal displacement in Africa. During the First Regional Conference on Internal Displacement in West Africa in April 2006 (co-sponsored by the Brookings Institution-University of Bern Project on Internal Displacement, ECOWAS, UNHCR, and my successor, Professor Walter Kalin, the Representative of the U.N. Secretary-General on the Human

Rights of Internally Displaced Persons), Mr. Nyanduga stated that he has focused on supporting the AU's initiative to establish a legal framework on IDPs, and integrating the Guiding Principles into the legal systems of African states.[62] As explained earlier, work on the Guiding Principles was a protracted, incremental process that initially involved requesting legal scholars to produce drafts building on the three sources: human rights law, humanitarian law, and analogous refugee law. These drafts were thoroughly discussed by a team of senior legal scholars over several sessions, with each session advancing the text and raising issues for further research and consideration. The discussion groups that considered the texts were broadened to include representatives of relevant U.N. agencies, regional organizations, and NGOs. In these sessions, we tried to ensure African participation in a variety of capacities, but obviously, in retrospect, considering that the continent is the worst affected, African contributions could and should have been stronger. Once the draft was finalized and endorsed by the U.N. Inter-Agency Standing Committee (comprising the heads of all the U.N. humanitarian, human rights, and development agencies), it was submitted to the Commission on Human Rights and later to the General Assembly. The response the Guiding Principles have received has already been presented above. It should be emphasized that in our cooperation with the regional organizations, the OAU was in the lead in organizing meetings on the Guiding Principles and called in strong language for their dissemination and application.

In view of this experience, the question that poses itself is whether the AU should start from scratch or build on what has so far been achieved. It would seem that focusing on what has been achieved but relating it to the African context would be the most constructive way to proceed. Indeed, since Africa would not be "reinventing the wheel," the process would be less protracted. This, in my view, would mean commissioning a small team of legal experts to look at the Guiding Principles in comparative reference to relevant AU instruments, such as the Charter and the Convention on Human and Peoples Rights of 1981, to ensure that the provisions of the Guiding Principles conform with the African normative outlook and meet the needs of the displaced on the continent. Their report would be presented to an enlarged team of representative experts from each of the five African sub-regions to consider and come out with an integrated text. An even broader forum involving pertinent stakeholders—including African civil society, NGOs, and external actors such as the relevant U.N. agen-

cies—would then be organized to finalize the text before presentation to the member states of the AU for formal adoption.

Efforts are already underway to utilize the Guiding Principles in Africa's sub-regions. The International Conference on the Great Lakes, for example, devised a legal framework under which the Guiding Principles were adopted and are to be implemented.[63] In terms of human resources, the project of developing a legal framework for the AU could be coordinated through the AU's Division of Humanitarian Affairs, Refugees and Displaced Persons to assist with the operational management of the project. A group of experts, who would be representative of Africa's sub-regions, would be convened to discuss the text at its various stages, before formal submission to the appropriate AU body for adoption. Lastly, while this should be an African initiative, using African expertise and owned by Africans, it would be unwise not to utilize collaboration with non-African experts with experience on the international response to the global crisis of internal displacement.

VIII. Conclusion

Africa is home to more than half of the world's internally displaced people. The most affected country in the world is Sudan, with nearly six million people displaced due to the prolonged war in the south and now the conflict in Darfur.[64] Over the course of the last decade, the magnitude of the crisis of the displaced has grown more visible. The world's displaced are forced to flee their homes because of internal armed conflicts, communal violence, and egregious violations of human rights. The internal displacement of people is a symptom of deep structural problems—the same troubles that generate conflict in the first place. Displacement calls for constructing societies in which all citizens are equal and their human rights and fundamental liberties are respected without discrimination on the grounds of race, national origin, ethnicity, religion, culture, gender, or other grounds. Internal displacement is thus a challenge of the state; indeed, it is a responsibility of the state.

As the U.N. Secretary-General's Representative on IDPs, I approached sovereignty as a *positive* concept entailing responsibility for the protection and general welfare of the citizens and others falling under state jurisdiction. The Guiding Principles are premised on the notion of state responsibility and the complementary or supportive role of the international community. The Principles provide a normative framework

that can be utilized as a tool for shaping Africa's response to displacement.

Africa has its own contribution to make to an appropriate regional and international response by building on African cultural values and normative principles to reinforce a positive interpretation of sovereignty as responsibility. In advocating a mechanism for preventing/resolving internal conflicts in Africa, Salim Ahmed Salim (then Secretary-General of the Organization of African Unity) said that in African cultures and normative behaviors, "we are our brothers' keepers," a concept essentially akin to the responsibility to protect.[65] We know that in Africa whenever there is a dispute in the family, including between the spouses, relatives and neighbors intervene on their own initiative to mediate. There is no notion of privacy or "internal affairs." This is indeed an area in which Africa has much to offer the international community by fostering both the notion of sovereignty as responsibility and the responsibility of outsiders to assist when states fail to discharge their national responsibility toward their needy citizens. ◉

Notes

1. Preamble to the Charter of the United Nations.

2. *Guiding Principles on Internal Displacement*, U.N. Doc. E/CN/1998/53/Add. (Also published in booklet form by the Office of the Coordination of Humanitarian Affairs, 1998.)

3. See Roberta Cohen and Francis Deng, *Masses in Flight: The Global Crisis of Internal Displacement* (Washington, D.C.: The Brooking Institution, 1998), pp. 23–29; United Nations High Commissioner for Refugees, *The State of the World's Refugees* (UNHCR, 1998), pp. 112–115; and WHO, "Internally Displaced Persons: Health and WHO," paper presented at the humanitarian affairs segment of the substantive session of the ECOSOC, New York, 5 April 2000, p. 5.

4. *The State of the World's Refugees 2006*, report published by the Office of the UNHCR, 2006.

5. See Francis M. Deng, "Ethnic Marginalization as Statelessness: Lessons from the Great Lakes Region of Africa," in *Citizenship Today: Global Perspectives and Practices*, eds. T. Aleinikoff and Douglas Klusmeyer (Washington, D.C.: The Carnegie Endowment for International Peace, 2001), pp. 183–208.

6. "Report of the Representative of the Secretary-General on Internally Displaced Persons," Francis M. Deng, submitted pursuant to Commission on Human Rights Resolution 2002/56, E/CN.4/2003/86, 21 January 2003, para. 4. Today, the figure is higher than ever, with an estimated 25 million internally displaced persons in fifty countries worldwide.

7. Cohen and Deng, *Masses In Flight*, pp. 3–4.

8. Ibid.

9. Ibid., p. 5.

10. GA res. 43/116 (1998).

11. ECOSOC Res. 1990/78. A report on this study was prepared by a consultant, Jaques Cuenod, and presented to ECOSOC in 1991. See U.N. Doc. E/1991/109/Add.1.

12. Simon Bagshaw, *Developing the Guiding Principles on Internal Displacement: The Role of a Global Public Policy Network*, available at www.globalpublicpolicy.net.

13. Ibid., p. 7.

14. Ibid.

15. U.N. Doc. E/CN.4/1991/25 (1991).

16. U.N. Doc. E/CN.4/1991/23 (1992).

17. Ibid.

18. U.N. Doc. E/CN.4/1992/73 (1992).

19. U.N. Doc. E/CN.4/1992/23 (1992).

20. See Bagshaw, supra note 100, at 9; U.N. Doc. E/CN.4/1992/73 (1992).

21. Francis M. Deng and I. William Zartman, eds., *Conflict Resolution in Africa* (Washington, D.C.: Brookings Institution Press, 1991).

22. Francis M. Deng, Sadikiel Kimaro, Terrence Lyons, Donald Rothchild, and I. William Zartman, eds., *Sovereignty as Responsibility: Conflict Management in Africa* (Washington, D.C.: Brookings Institution Press, 1996).

23. Francis M. Deng and Terrence Lyons, eds., *African Reckoning: A Quest for Good* (Washington, D.C.: Brookings Institution Press, 1998).

24. Francis M. Deng and I. William Zartman, *A Strategic Vision for Africa: The Kampala Movement* (Washington, D.C.: Brookings Institution Press, 2002).

25. For my various contributions to the normative theme of the responsibility of sovereignty, see these additional books, chapters, and articles: Francis M. Deng, "Sovereignty and Humanitarian Responsibility: A Challenge for NGOs in Africa and the Sudan," in *Vigilance and Vengeance*, ed. Robert I. Rotberg (Washington, D.C.: Brookings Institution Press and The World Peace Foundation, 1996); Francis M. Deng, Sadikiel Kimaro, Terrence Lyons, Donald Rothchild, and I. William Zartman, eds., *Sovereignty as Responsibility: Conflict Management in Africa* (Washington, D.C.: Brookings Institution Press, 1996); "Reconciling Sovereignty with Responsibility: A Basis for International Humanitarian Action," in *Africa in World Politics*, eds., John Harbeson and Donald Rothchild (Boulder, Col.: Westview Press, 1995); Ibid, "Frontiers of Sovereignty: A Framework of Protection, Assistance and Development for the Internally Displaced," *Leiden Journal of International Law* 8, no. 2 (1995).

26. *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Center, 2001).

27. Thomas G. Weiss and David A. Korn, *Internal Displacement: Conceptualization and its Consequences* (London and New York, 2006), p. 97.

28. Ibid., pp. 98–99.

29. Amitai Etzioni, *Sovereignty as Responsibility*, published by Elsevier on behalf of Foreign Policy Research Institute (Winter 2006), p. 71.

30. Ibid., p. 73.

31. Ibid., p. 76.

32. Ibid., pp. 84–85.

33. United Nations Report of the High-Level Panel on Threats, Challenges, and Changes, *A More Secure World: Our Shared Responsibility* (New York: U.N., 2004), para 199–203; and Kofi Annan, *In Larger Freedom: Toward Development, Security and Human Rights for All*, U.N. Doc. A/59/2005 (21 March 2005), para 135.

34. General Assembly 2005, *World Summit Outcome*, U.N. Doc. A/60/L1 (15 September 2005), para 139.

35. Weiss and Korn, *Internal Displacement*, p. xiv.

36. Comprehensive study prepared by Francis M. Deng, Representative of the Secretary-General, on the human rights issues related to internally displaced persons, pursuant to the Commission on Human Rights resolution 1992/73, E/CN.4/1993/35 (1993). Later revised and published by the Brookings Institution.

37. Ibid., para 281.

38. U.N. Doc. E/CN.4/1993/95 (1993), para 1, 3, 4. The mandate has subsequently been renewed three times for a period of three years each. See U.N. Doc. E/CN.4/1995/57, E/CN.4/1998/50, and e/cn.4/2001/54.

39. Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights Resolution 1995/57. Compilation and analysis of legal norms, E/CN.4/1996/52/Add.2 (1996).

40. Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights Resolution 1997/39. Compilation and analysis of legal norms, Part II: Legal Aspects Relating to the Protection Against Arbitrary Displacement, E/CN.4/1998/53/Add.1 (1998).

41. U.N. Doc. E/CN.4/1996/52, para 9 (1996).

42. See Bagshaw, supranote 104, at 21–22.

43. Jean-Philippe Lavoyer, Deputy Head of the ICRC legal division, was involved in this process and offered his assessment of the Guiding Principles in light of ICRC concerns in a 1998 article. See Jean-Philippe Lavoyer, "Guiding Principles on Internal Displacement: A Few Concerns on the Contribution of International Law," *Int'l Rev. of the Red Cross* 324 (30 September 1998): 467–480.

44. See Walter Kalin, "How Hard is Soft Law? The Guiding Principles on Internal Displacement and the Need for a Normative Framework," in *Recent Commentaries about the Nature and Application of the Guiding Principles on Internal Displacement* 3–7 (2002).

45. Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add 2 (1998).

46. Guiding Principles, para 2.

47. U.N. Doc. E/CN.4/1998/50, para 1, 6 (1998). During my mission to Mexico in 2002, the delegate of Mexico, who had expressed reservations about the Guiding Principles on the Commission and who was now legal advisor in the Ministry of Foreign Affairs under the new President Fox's Government, strongly advocated the Guiding Principles as a valuable statement of the law relating to IDPs.

48. *Strengthening of the Coordination of Emergency Humanitarian Assistance of the United Nations*, published by the U.N., A/53/139-E/1998/67, 1998.

49. U.N., *Report on the Secretary-General to the Security Council on the Protection of Civilians in Armed Conflict*, published by the U.N., S/1999/957, 199.

50. U.N. Security Council, 4091st Meeting, published by the U.N., SC/RES/1286, 2000.

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