

## **The Office of the High Commissioner for Human Rights Role in the Protection of Internally Displaced Persons**

*Presentation at the Regional Seminar on Internally Displacement in the Southern African Development Community (SADC) region: by Dr Sihaka Tsemo, OHCHR regional representative for Southern Africa, 24-26 August 2005.*

### **Introduction**

Human rights violations are rife in situations of forced displacement. Indeed, human rights violations are both causes and effects of internally displaced populations (IDPs). The IDPs are particularly affected by the disregard of most of their socio economic rights such as the rights to health, education, proper housing, and the right to work.

We heard during the past 2 days how much protection of IDPs holds greater challenges than refugee, one of them being that IDPs are the primary responsibility of their governments who in some instances have caused the displacement. In 1999, some 350 000 people were forcefully displaced by the government of Burundi as part of a counter-insurgency campaign. Break down in the rule of law and accessibility in the face of armed conflicts. Several UN agencies are providing assistance to IDPs, seeking ways to better coordinate the protection needs of the most vulnerable among them. Through the development of normative frameworks, trainings and advocacy, and provision of some basic necessities for this group, the Representative of the Secretary General on IDP<sup>1</sup>, OCHA, UNERC, UNHCR, UNHCHR, UNICEF and WFP continue to work to ensure protection and bring assistance to IDPs. It is not an easy task to focus on the role of OHCHR in the protection of IDPs.

The mandate of the Office of the High Commissioner for Human Rights derives from articles 1, 13 and 55 of the Charter of the United Nations, the Vienna Declaration and Programme of Action and the General Assembly Resolution 48/141 of 20 December 1993, by which the Assembly established the post of the United Nations High Commissioner for Human Rights, and in 1997 consolidated this post and the Centre for Human Rights into a single Office of the United Nations High Commissioner for Human Rights as of 15 September 1997. OHCHR promotes international cooperation for the protection and promotion of human rights, universal

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<sup>1</sup> Appointed in 1992 by the Secretary General at the request of the Commission on Human Rights

ratification and implementation of international and regional standards. The office also assists in the promotion of new norms and responds to human rights violations. In his most recent reform's reports: Strengthening the UN: "An Agenda for Further Change" and In Larger Freedom, the United Nations Secretary General, emphasised the centrality of human rights within UN humanitarian, peace and security and development programmes.

### **OHCHR and Internally Displaced Persons**

As a key agency playing a catalyst role in mainstreaming human rights in policies and programmes, OHCHR in line with its broad mandate of promoting universal enjoyment of human rights has been involved in the protection of internally displaced persons, mainly by assisting in the preparation of the Guiding Principles on Internal Displacement<sup>2</sup>

### **What is expected from OHCHR?**

Although OHCHR does not have any specific policy on IDPs besides relying on the RSG on IDPs whom it services, the office is tasked among others to monitor and report the abuses and to advocate for the protection of the rights of IDPs. OHCHR has in numerous occasions reported human rights violation of IDPs and continues to monitor human rights violation of this group of displaced person while advocating for greater protection. In the face of what had been described as the world's worst humanitarian crisis in the Darfur, OHCHR with accord from the Sudanese government deployed a team of human rights monitors to monitor, report and analysis the human rights situation in Darfur.

In the region, OHCHR by its field office in the Democratic Republic of Congo (DRC), assist the UN Mission in the DRC (MONUC) in their effort to ensure full respect and enjoyment of human rights of all including the large population of IDPs produced by the armed conflict in that country. In 2003, the OHCHR in DRC signed an MoU with the human rights section of the MONUC to undertake joint activities. One of the joint activities was the development of a programme on the rule of law and the strengthening of the judicial system with the aim of building institutional capacity to protect human rights.

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<sup>2</sup> UN Doc. No E/CN.4/1998/53/Add.2 (1998). Developed by the SG representative on internal displacement, these thirty principles are derived from binding international law and provide guidance to governments and other authorities as well as international and national organisations committed to the protection and assistance of internal displaced persons.

The various field offices play several roles in entrenching human rights in the field. In its monitoring and reporting role, the office conducts fact-finding, data gathering and analysis of human rights violations. As part of its training and capacity building role, the office undertakes capacity building exercises for national stakeholders (national human rights institutions, the judiciary, the parliament, the police force and NGOs) on human rights mechanisms. This ensures strong institutional capacity essential in the protection of the rights of IDPs

OHCHR is involved in the coordinated effort to protect and assist displaced populations and IDPs in particular. It is a Standing invitee of the Inter-agency Standing Committee (IASC).<sup>3</sup> The Committee adopted the IASC Policy in the Protection of IDPs contributing to the development of the normative framework in the protection of IDPs. In December 2000, the office was part of the Senior Inter-Agency Network on Internal Displacement mission to Burundi. Led by the UN Special Coordinator of Internal Displacement, the objectives of the mission were to assess the nature and magnitude of the assistance and protection needs of IDPs, particularly with regards to displaced women and children; review the operational capacity of UN agencies and other humanitarian actors on the ground to respond to such needs with a view to identifying any gaps in the humanitarian; to review existing institutional arrangements within and between the UN agencies and make recommendations to concern agencies, organisations and the government

The office believes that the international community's responsibility in assisting and protecting IDPs cannot be separated from states' responsibilities. The strengthening of the rule of law and the building of strong national and regional human rights protection systems, which are necessary to ensure protection of IDPs are fundamental. Alongside with the rest of the UN and other development partners, OHCHR gives priority to prevention promotes a rights based approach to development which addresses the root causes of crisis and conflicts (discrimination, non participation, marginalisation and unequal access to resources) and encourage the mainstreaming of human rights principles in development's objectives, including the MDGs and poverty reduction strategies. Promoting ratification, domestication and implementation of international and regional

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<sup>3</sup> Members of IASC include FAO, OCHA, UNDP, UNFPA, UNICEF, UNHCR, WFP, WHO. Other standing invitees are ICRC, ICVA, FRC, Interaction, IOM, SCHR, RSG/IDPs and the World Bank

human rights instruments including the Guiding Principles on Internal Displacement and their application at national levels forms part of the same approach and is progressively achieved through concerted efforts with the African Union, the African Commission on Human and People's rights and the NEPAD. We also work with these and other partners in providing appropriate, gender based response to violations and abuses as required.

Increasingly peacekeeping missions around the world are being given the responsibility to ensure the protection of IDPs. OHCHR has a history of involvement in such missions through its recent initiative of establishing field offices.

In Iraq where several years of suppression, war and deprivation has uprooted and displaced millions of Iraqis, OHCHR works along other UN partners to ensure protection of the displaced population. The Office is a principal member of IDP and refugee cluster in that country. The aim of the cluster is to ensure that Iraqi authorities apply international protection standards to the displaced population among which are the internally displaced.

## **Challenges for OHCHR**

Lack of safe and direct access of displaced persons in some instances is a major challenge.

One of the major challenges faced by OHCHR is that of limited resources. In the face of the prevailing situations of armed conflicts, humanitarian crisis, breakdown in the rule of law and under development in many countries Africa and in Southern Africa, the result is an escalation in the human rights violations demanding an equally escalation in OHCHR's resources for its to effectively entrench respect and protection of human rights. In the Plan of Action submitted by the High Commissioner for Human Rights, on building capacity for the office<sup>4</sup>, the High Commissioner called for an increase in professional staff and a commitment to provision of financial resources commensurate to the task the office is mandated to carryout.

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<sup>4</sup> Addendum 3 of the Secretary General's Report "In Larger Freedom"

## **Way Forward for OHCHR**

Develop specific policy on IDPs

Increase institutional capacity