

**STATEMENT OF ROBERTA COHEN, CO-DIRECTOR OF THE BROOKINGS INSTITUTION–UNIVERSITY OF BERN PROJECT ON INTERNAL DISPLACEMENT, AT THE INTERNATIONAL CONFERENCE ON REFUGEE RIGHTS, CANADIAN COUNCIL FOR REFUGEES, TORONTO, JUNE 17, 2006**

It is a pleasure to be at this conference organized by the Canadian Council for Refugees. I'm particularly pleased to see the subject of internally displaced persons (IDPs) on the agenda. I've been asked to comment on the recent international thinking about this issue. There are today 24 million people forcibly uprooted within their own countries by conflict and human rights violations in more than 40 countries. They are people with very special needs different from others in the population. In looking at the problem in 2005, UNHCR's then Assistant High Commissioner Kamel Morjane said: "It is neither ethical nor practical to distinguish between human beings because of a border they may or may not have crossed. Human life should have the same worth whether a person is a refugee or an IDP."

What this tells us is that there has been a major change in international thinking about forced migration. Today, international attention in emergency situations focuses not only on refugees, who flee across borders from persecution and violence, but also on internally displaced persons, who remain forcibly uprooted at home. Recognition has developed that those uprooted inside their own countries may also need international protection and assistance. The age of protecting only refugees in emergencies is over. The World Summit Document of September 2005, which was adopted by all heads of government, clearly reflects this broader thinking. In it governments resolve "to take effective measures to increase the protection of internally displaced persons."

This new focus reflects changing notions of sovereignty. Until the last decade of the 20<sup>th</sup> century, the international community basically considered people uprooted within their own countries to fall exclusively under the jurisdiction of their governments. Today, sovereignty is no longer seen as absolute. Rather it has come to mean responsibility towards one's citizens, and when governments do not provide for their security and well-being, they can expect some form of international reaction and engagement. The UN Secretary-General put it well: "if national authorities are unable or unwilling to protect their citizens, then the responsibility *shifts* to the international community to use diplomatic, humanitarian and other methods to help protect the human rights and well-being of civilian populations." The World Summit Document reinforced this by endorsing a collective "responsibility to protect" people from genocide, war crimes, ethnic cleansing and crimes against humanity. The government of Canada, as I'm sure many of you are aware, played a significant role in developing the thinking that led to this affirmation of a collective responsibility to protect.

Of course you may rightly say, don't the governments of Sudan and Burma and Russia treat IDPs any way they please? Admittedly there is a gap between the concept of a responsibility to protect and the reality on the ground. At the same time, ideas do matter and there has been a real change in thinking about people in need of basic humanitarian aid and protection while in their own countries. They are beginning to be seen as having

certain rights and claims on the international community when their governments do not act responsibly, or where there is a disintegration of the state. And increasingly it is being recognized that the international community has a right and even a responsibility to act when governments fail to carry out their responsibilities. In short, an expectation now exists that IDPs should be protected and assisted.

A second notable change is the growing acceptance and promotion of a legal framework for IDPs. Initially states were cautious about accepting the Guiding Principles on Internal Displacement, the first international standards for the protection of IDPs that were introduced into the UN in 1998. Today, these Principles are recognized as the standard for dealing with situations of internal displacement. This is acknowledged in UN resolutions, in the Secretary-General's reports, and in the World Summit Document, which has a special paragraph on the Guiding Principles (Para 132). It calls them "an important international framework for the protection of internally displaced persons."

The Principles, however, have no implementation machinery of their own. NGOs therefore have been, and are needed to be, in the forefront of disseminating the Principles and pressing their governments to improve IDP conditions on the ground. NGOs have also been using the Principles as a yardstick for monitoring the national and international response to IDP needs. In great measure as a result of NGO action, the Principles have been translated into more than 40 languages and at least ten governments have adopted national laws or policies on internal displacement based on the Principles, and five more are in the process of doing so. In the case of Georgia, for example, the government has changed its laws on IDP voting rights so that they accord with the Principles. In the case of Colombia, the Constitutional Court has based three of its decisions on the Principles and has ordered the government to provide more material aid to IDPs.

Recently, some NGOs have begun to call for a legally binding instrument like a treaty based on the Guiding Principles to hold governments accountable, and at the regional level, the African Union has begun to develop a legally binding instrument. But overall, experts caution against moving too quickly in the direction of a treaty at the international level. The drafting could take years, even decades, and the instrument in the end could turn out to offer less protection than the Guiding Principles do. A number of governments after all would like nothing better than to have a drafting session in which they could water down the international human rights and humanitarian law upon which the Principles are based. For the time being, it remains important for NGOs to continue to strengthen the standing and usage of the Principles by disseminating them, and advocating for IDP rights on the basis of them and promoting their incorporation into domestic law and policy. Whether over time the Principles will come to be considered something approximating hard law, or whether they will serve as a stepping-stone to a treaty, remains to be seen.

A third area in which there has been new thinking is in institutional arrangements for IDPs. Since the mid 1990s, the preferred international arrangement for dealing with IDPs has been the collaborative approach. This means that all UN agencies involved in humanitarian, human rights and development efforts are expected to share the

responsibility for responding to the needs of IDPs, coordinated by the Emergency Relief Coordinator at headquarters and by Resident/Humanitarian Coordinators in the field. But the approach has proved deficient. Just about every UN and independent evaluation has found the collaborative approach wanting when it comes to protecting IDPs. The main shortcoming has been that the Emergency Relief Coordinator does not have the authority to tell the major operational agencies what to do. In Sudan, UNHCR said “no” when asked to take over the IDP camps in Darfur. In addition, no one is in charge. “Co-heads are no-heads,” a former US Ambassador to the UN said after visiting IDP camps in Angola and found no locus of responsibility for IDPs. Agencies basically pick and choose the situations in which they wish to become involved with the result that the displaced have been helped in varying degree in some countries and not at all in others. One particularly publicized shortcoming has been in the area of protection. Whereas UN agencies have been effective in providing food, medicine and shelter to IDPs, they have been less so in advocating for and defending the human rights of IDPs and protecting them from abuse, attack and sexual violence. The expression the “well fed dead” came into vogue in Bosnia to describe people who die on full stomachs because few on the ground know how to advocate for IDPs or carry out protection responsibilities.

In an effort to remedy these deficiencies, the UN in January 2006 introduced a new approach, the “sectoral” or “cluster” approach. Different agencies are now expected in each emergency to take the lead in the field in their area of expertise. Thus, UNHCR has agreed to serve as lead agency for the protection of IDPs as well as for camp management and emergency shelter in conflict situations. Other agencies have assumed the lead for water and sanitation, nutrition, health, early recovery and so forth. The UN contends that the new system -- with one agency coordinating others in each sector -- will bring institutional clarity and make the collaborative approach more predictable and accountable.

But it is too early to say how effectively the new system will work. Some NGOs have welcomed the new approach, especially because it makes one agency – UNHCR -- responsible for IDP protection, which has been the biggest gap in the collaborative system. Other NGOs have been skeptical. One representative from the International Rescue Committee asked whether the new system is “an improvement or just a repackaging of a flawed and unworkable system” namely the collaborative approach. Another from Refugees International said that “tweaks are not enough” at a time of UN reform. There should be one overall lead agency put in charge of *all* IDP field operations, most notably UNHCR. A leading migration specialist Susan Martin went even further, recommending the creation of a new agency, a UN High Commissioner for Forced Migrants with an explicit mandate for both refugees and IDPs. Simply enlarging UNHCR’s mandate, she said, will make IDPs but an after-thought in a refugee agency.

As the protection lead for IDPs, UNHCR will be more of a coordinator than the undisputed operational lead that characterizes its work with refugees. It will also have to navigate a cumbersome collaborative system, reporting to Resident/Humanitarian Coordinators in the field who in turn report to other UN staff. Resident/Humanitarian Coordinators, moreover, do not always strongly support protection activities. Further,

UNHCR will have to be mindful that its protection activities for IDPs do not undermine refugee protection. Some governments have been known to refuse asylum on the grounds that in-country protection is being provided for IDPs. Funding is an important issue as well since UNHCR does not plan to divert funds from its refugee work to enable it to carry out its new IDP responsibilities.

The extent to which the new arrangement succeeds will depend on funds; it will also depend on NGO participation. The UN may be doing the coordination, but the operational arms are the NGOs. Some NGOs are already participating in the clusters, but others have stayed aloof, saying the system is too UN-centric. Part of the problem is that NGO participation in UN country teams has often been weak and ad hoc. Unlike UNHCR, other UN agencies that are cluster leads do not have formal partnerships with NGOs. To strengthen the NGO-UN relationship, and make the cluster system more inclusive of non-UN agencies, a meeting is being convened in Geneva in July co-chaired by Jan Egeland, the Emergency Relief Coordinator, and Elizabeth Ferris on behalf of the NGOs. Hopefully, the outcome will forge a more effective NGO-UN alliance to enhance international humanitarian action on behalf of IDPs.

To conclude, narrowing the disparity in treatment between refugees and IDPs has now become an active goal of the international community to which everyone should be committed. Let me quote the UK's Secretary of State for International Development, Hilary Benn, and pose a question to you: "Is it really sensible that we have different systems for dealing with people fleeing their homes dependent on whether they happen to have crossed an international border?" That encapsulates the new thinking.