

## Term Paper for Module E 2004

### **Given the inherently difficult relation between the two principles of sovereignty and responsibility, comment on the applicability of the UN Guiding Principles on Internal Displacement in South Asia.**

By Parveen Abdul Gaffar

Human movement caused by armed conflicts, violence, persecution, man made and natural disasters and development projects have taken place in large scale and continue to do so in every region of the world. At different times in history, people have been forcibly evicted from their homes and forced to find shelter in other areas, sometimes in countries other than their own or in some cases in different parts of their own country. Based on their movement, the displaced who cross an international border are termed "refugees" while those who remain within the country of origin are termed "Internally Displaced Persons (IDPs)". This terminology is of immense importance as the regime of care is based on this categorization.

Due to the fact that refugees leave their country of origin and are therefore not within the jurisdiction of their government, the international community is called in to assist this stateless group of persons. Over the years an international refugee convention, international laws and the UN High Commissioner for Refugees (UNHCR) have been institutionalized to oversee protection and assistance to this group of persons. Refugees have been the largest group of displaced persons for a long period of time and it was only in the last decade of the twentieth century that the issue of internally displaced persons entered the international agenda. Currently it is estimated that worldwide there are over 25 million people who have been forcibly displaced within their own countries. "Often trapped in the midst of conflict, they are more likely to be deprived of shelter, food and health services than other members of the population and they are especially vulnerable to arbitrary detention, forced conscription, sexual assault, physical attack and other forms of human rights abuses"[\[1\]](#). The international community found it self ill prepared to deal with this large category of persons who did not fit in to the system of protection that had been tailor made until then only to deal with the refugee population.

Traditional notions of state sovereignty consider states to have the exclusive responsibility of providing for the well being and security of all its citizens. Since the internally displaced continue to be within their own state borders they theoretically continue to be under the protection of the state and are eligible to the same rights that the rest of the population enjoys. However it has been found that not all governments take up their responsibility in the same manner and provide protection to this group of persons equally. Many governments are neglectful in their protection regime, or deliberately subject their populations to displacement, starvation, mass killings or other serious human rights abuses or do not have the capacity to deal with the problem on their own.

For a long period of time the notion of state sovereignty precluded the international community from getting involved even in very grave situations of abuse. However the large upsurge in numbers of IDPs during the 1990's, the concern that such a large phenomenon could disrupt the stability of countries and undermine regional and international security, the easier access made available to displaced populations, the realization that post conflict reconstruction could not take place without the effective reintegration of the displaced and the desire to curb refugee flows, motivated the international community to start taking responsibility for this large group of persons who at times are in very dire straits. As the UN Secretary General Kofi Annan has pointed out "Internal displacement has created an unprecedented challenge for the international community to find ways to respond to what is essentially an internal crisis."[\[2\]](#)

The appointment by the UN Secretary-General of Dr. Francis Deng as the Representative on IDPs was an important step taken to face the challenge. The UN Guiding Principles on Internally Displaced developed by him in consultation with different actors is regarded as the turning point in the regime of care towards IDPs. The Guiding principles set forth the rights of the internally displaced and the obligations of governments and non-state actors towards these populations. It lays down guidelines for protection against arbitrary displacement, offer a basis for protection and assistance during displacement and set forth guidelines for safe return, resettlement and reintegration. It is not a legally binding document but is consistent with international human rights and humanitarian law and analogous to refugee law.

The guiding principles in an attempt to reconcile the principles of sovereignty and responsibility puts forward the concept that sovereignty is a form of responsibility towards all of one's citizens and hold states responsible for all its citizens in an equal manner. At the same time it also provides the space for international involvement when deemed necessary. If states are unable to fulfill their responsibilities they are expected to request and accept outside offers of aid and if they refuse or deliberately obstruct such access and put large numbers of people at risk the international community is given the right and

even responsibility to express its concern. "A state can claim the prerogatives of sovereignty only so long as it carries out its internationally recognized responsibilities to provide protection and assistance to its citizens. Failure to do so should legitimize the involvement of the international Community"<sup>[3]</sup>. This was an attempt to safeguard the sovereignty of a state as well the situation of the displaced. The management model that is envisioned through the Guiding Principles is not a single agency model but rather a collaborative effort involving government officials, UN agencies and International and local NGOs. It is hoped that this approach would result in an effective and comprehensive approach to deal with IDPs.

South Asia has been identified as a region that has a large percentage of internally displaced persons. The volatile political scene, the presence of a large number of minority groups within each country and the perceived discriminatory practices towards them by the mostly majoritarian government, the heritage of colonial rule and issues in the formation of the "nation" have all contributed to a very unstable situation within the region. The susceptibility to frequent natural disasters such as cyclones, floods and drought as well as the developmental projects initiated have contributed to displacing persons from their homes. The countries mostly affected by the problem of internal displacement have been Sri Lanka, India, Pakistan and Bangladesh. The number in Sri Lanka has fluctuated between 500,000 to 1,000,000 and is currently estimated to be around 300,000 due to the ceasefire in place. Internal displacement in India, largely limited to the regions of Jammu and Kashmir and the NE states is estimated to be more than 650,000. Internal displacement within Pakistan, attributed to the conflict with India as well as to internal conflicts such as civil unrest and tribal warfare, is close to 45,000.

The conflicts in these countries are in most occasions still ongoing with no permanent solution at hand and this factor greater affects the applicability of the guiding principles in the region. In many instances the Non State Actor (NSA) continues to have control over certain areas of the country or the security situation is such that governments are prevented from having access to sections of the population. This situation is apparent in Sri Lanka as well as in the disputed regions of Kashmir. The guiding principles lay the responsibility for the well being of all citizens in the hands of the state but this situation raises legitimate concerns of the applicability of this notion of "sovereignty as responsibility" as access to all its citizens is denied to the state. The lack of a stable situation also affects the provision of protection to these people as the situation could indeed change quite suddenly and is beyond the control of the state. The degree of confidence people have to return to conflict affected areas and the assurance that displacement will not take place thereafter, critical elements in the entire process of return and resettlement, are also affected by the volatile conditions and also prevent governments from providing assurance and building confidence for return.

As in the case of Sri Lanka, with the very basis of conflict being the issue of a separate state this issue of who provides aid and to whom remains a crucial issue that needs to be dealt with carefully as not to jeopardize the peace initiatives under way. The government on the one hand, in their effort to maintain their stand that the sovereignty of the country should be protected, uses the notion of sovereignty and the responsibility entrusted by it to reaffirm the fact that it indeed has the authority over all its land. However in reality the extent of its control is often limited as described above and thereby the extent of responsibility curtailed. A balance in responsibility needs to be made between the state and the NSA if all affected are to be provided for but the lack of stable conditions is once again an obstacle to it.

The ultimate purpose of the guiding principles is ensuring that the human rights of this group of displaced is protected and that as citizens of the country they enjoy the same rights that the rest of the population enjoys. However in the application of this principle a conflict arises between the concept of human rights for all and the protection of state security. The state is ultimately responsible for ensuring that state security is not compromised in any way especially when there is conflict prevailing in the state and the protection system undertaken by the government should be in line with this. With the conflict in these countries still continuing states have to be vary of the fact that even though human rights for all is something that the state is responsible for it cannot always assure it unconditionally. In Sri Lanka during the height of conflict the military and defence apparatus played a crucial role in determining the extent and nature of the humanitarian response to the displaced, including the range and quality of supplies that should reach the conflict areas<sup>[4]</sup>. Thus in some instances the assistance provided could have not been what the people needed but rather what was safe to send.

This concept is also highlighted in the issue related to High Security Zones (HSZ) in the conflict affected areas in Sri Lanka. In spite of the cease fire that is on, the Sri Lanka Army still continues to have HSZ in crucial parts of the country as a safeguard against possible attacks from the enemy. It has been highlighted often that the HSZs are located in areas that were previously highly populated and demands have been made for their removal in order to allow the returning IDPs to resettle. However the government is very strong in its stand and sees the removal of HSZ as a compromise of state security. The state has been accused of violating the fundamental rights of these people to return to their homes, and cases have been filled in the Supreme Court but yet the state continues to hold on to its stand that national security should be given priority. A recent verdict did allow the applicant to return but it was clearly stated that this would not be precedence for other cases and that cases would be dealt with on an individual basis.

The identification and addressing of the root cause of conflict is a dimension that needs to be dealt with if return and resettlement is to take place in a country. Internal displacement as a result of national identity crises fuelled by inter ethnic feuds, fighting over diminishing resources and protests against what they see as majoritarian state control, as is the case in the NE states of India, cannot be mitigated through a focus on the displaced only. If the situation in that region is to be improved and displacement prevented from taking place thereafter the state needs to rethink its overall national policies as well. The guiding principles cannot be applied in isolation and are dependent on the states' willingness to look at the other issues as well.

Providing of direct relief measures to the displaced is an immense task that governments are faced with in a situation of internal displacement. It is an extremely expensive task that requires many resources both material as well as human. Adequate resources to deal with the situation is an issue faced by the states in this region. In a situation where a state is not capable of handling the problem on its own international assistance is made available to a state and as the guiding principles affirm that states are obliged to accept this. However the extent to which states make use of this provision is dependent on the extent to which the state is open to international involvement in its internal affairs.

In Sri Lanka the government has taken a lead role in the coordinating of relief measures and in recognition of the fact that the state does not have adequate resources to deal with the matter on its own has been very much open to and welcome of the involvement of the international community. India quite in contrast to the situation in Sri Lanka is very stringent in allowing any international actor to be involved in the process of providing relief to the internally displaced in spite of the fact that the limited relief provided by the government is far from sufficient for the people. The state of India continues to consider the issue of internal displacement, similar to its policy on refugees, very much an internal problem that it would deal on its own and government policies have not encouraged international intervention direct, nor has the international community asserted its right to be involved in the situation. India is so strict on its views of not wanting international involvement that it goes to the extent of refusing to even acknowledge the presence of IDPs and refers to them as "migrants" as opposed to IDPs. In Pakistan it is reported that short-term assistance is provided by the government to the displaced but long term humanitarian assistance has been insufficient and sporadic. Here too the state has been reluctant to allow international involvement and similar to India has been largely ignored by the international community. The UN is present in the Kashmir region for purposes of monitoring the LOC but has not so far gotten involved in providing humanitarian assistance to the people. UNHCR has also stated its unwillingness to come in to the country as it feels it is the government's responsibility to look after the internally displaced.

This attitude of not being open to international assistance stems from the fact that these South Asian countries who have been under colonial rule for many decades are apprehensive of too much international involvement in their internal matters. The concept of safeguarding the country's sovereignty comes very much in to play in the case of India as it fears that too much international involvement in this issue could in certain aspects lead to interference in all aspects of the state. Sri Lanka which has been very open to international involvement in its assistance programmes does at times find that international involvement tends to overflow in to all areas of governance and policies of the government tend to be determined by international donor agencies and their mandates rather than on the needs of the country. Thus the existing notions about international aid and past experiences prevent states from being open to international assistance to supplement their response to the situation in spite of the space given for it in the concept of the guiding principles.

While the guiding principles are a good means to encourage or push governments to claim responsibility for their people and ensure that their needs are met, the provisions present to allow international aid agencies to come in to ensure that gaps are met can be manipulated by the governments themselves. Too great an involvement by the UN and other international NGOs can undermine state responsibility as well. States tend to take it easy and await international aid rather than make any effort to solve the problem on their own. An example from Sri Lanka is the situation with regard to the Unified Assistance Scheme. The government though initiating the scheme was totally dependent on international aid for the funds needed for the implementation of it. In the process of implementing it was found that there was insufficient funds for the continuation of the scheme and the situation was attributed to the lack of responsibility on the part of the state to seek its own funds. It has also been found that International assistance often lacks focus on building national skills and capacity thus resulting in national authorities lacking the capability of handling the issue on their own and being too dependent on international assistance, which is not helpful in the long run.

The Guiding Principles on Internal Displacement has been a very useful tool in the protection and care of the displaced. It has guided states in their responsibility and has been the basis for their national policies. In looking at the concerns raised in the applicability of the principles in the South Asian region it is apparent that the applicability of the principles is still very much dependent on the attitude of states and their own internal situations and policies. The fact that the guidelines are not a

legally binding document is a drawback as it causes states not to take responsibility for sections of their population but rest assured that there are no repercussions. The lack of a legal mechanism also prevents citizens from raising concerns about state action or demand that they be treated as equal citizens of the country.

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"Sovereignty as Responsibility: The Guiding Principles on Internal Displacement" By Dr. Roberta Cohen, co-director of the Brookings Institution-Johns Hopkins Project on Internal Displacement

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[1] Report of the Expert Group Meeting on Internal Displacement in the Commonwealth : Common Themes and Best Practice Guidelines – Marlborough House, London, 19-21 May 2003. (Pg 2)

[2] Report of the Expert Group Meeting on Internal Displacement in the Commonwealth : Common Themes and Best Practice Guidelines – Marlborough House, London, 19-21 May 2003. (Pg 3)

[3] "Tough Nuts to Crack" Dealing with Difficult Situations of Internal Displacement. Working Paper by Roberta Cohen, Conference held January 28, 1999.

[4] Gomez, M. (2002), "National Human Rights Commissions and IDPs, Illustrated by the Sri Lankan Experience", Washington, DC: The Brookings-SAIS Project on Internal Displacement

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**Given the inherently difficult relation between the two principles of sovereignty and responsibility, comment on applicability of the UN Guiding Principles on Internal Displacement in South Asia.**

*By Vanita Sharma*

One of the major problems currently facing international humanitarian organizations working in the field of forced migration is how to deal with the rapidly growing numbers of internally displaced persons (IDPs). Internally displaced persons can be broadly defined as people who have been forcibly displaced from their homes, but who have not crossed any international borders and are thus excluded from accessing the rights and protection offered by international law to refugees. IDPs are seen as suffering the same problems as refugees, but by virtue of the fact that they have not crossed an international boundary, the international community is unable to help them. In 1982, there were an estimated 1.2 million IDPs in eleven countries, but within the space of just fifteen years, both the number of IDPs and the number of countries affected had risen as in 1997 there were an estimated 20 million IDPs from 35-40 countries.[1] It has been argued that their numbers have or will soon even exceed the number of global refugees. As IDPs have remained within their country, the responsibility for their protection lies with their government, but frequently they are neglected. However, in this scenario, both international law and international humanitarian organisations have also been found to be ill-equipped to intervene to address the needs of IDPs. The major barriers faced are the issues of sovereignty and responsibility. Whilst the governments of IDPs are often found to be either powerless, unable or unwilling to help them, because they have remained under the the jurisdiction of their country, the international community has no mandate to help them without the permission or invitation of their government, as this would involve overriding the sovereignty of the state. Growing recognition of the plight of IDPs has prompted the UN to take a greater interest in their protection. In 1992, the *UN Commission on Human Rights* appointed Francis M. Deng to be the UN Representative on IDPs and to investigate the problem. One of the outcomes of Deng's research was the production of the *UN Guiding Principles on Internal Displacement (1998)*. This essay will discuss how useful the Guiding Principles are in addressing the needs of IDPs in South Asia in particular and most importantly, how successfully have they been able to navigate the problem of sovereignty and responsibility.

*IDPs in South Asia*

Internal displacement is a critical problem which is currently facing all countries in South Asia. The current estimates for IDPs in South Asia are as follows:

## Estimates of number of IDPs\*

(Updated as of November 2004)

Countries	Number of IDPs	Estimate date
<a href="#">Bangladesh</a>	150,000-520,000	Oct. 2003
<a href="#">India</a>	650,000	Oct. 2003
<a href="#">Nepal</a>	100,000-150,000	March 2003
<a href="#">Pakistan</a>	Undetermined	June 2002
<a href="#">Sri Lanka</a>	362,000	June 2004

\* Bhutan and Maldives are not mentioned.

Cited in "IDP Worldwide 2004", November 2004

[http://www.idpproject.org/global\\_overview.htm](http://www.idpproject.org/global_overview.htm)

In India, the country with the largest number of IDPs, most are located in Kashmir and the North East. In Kashmir, since 1989 there has been major displacement in the J&K region affecting both numerous Muslim inhabitants and up to 400 000 Hindu Pandits, caused both by the internal conflict and fighting against the state, and by the Indo-Pak fighting on the LOC. In the North East, there has been mass displacement due both to tribal conflicts seeking to establish ethnic homelands and also because of fighting against the state.<sup>[2]</sup> In Pakistan, no figures have been cited, but it too faces serious problems with IDPs. It has thousands of IDPs Kashmir and other border areas with India, but displacement has also been triggered by development initiatives such as in Gawadar in Baluchistan where a new port is being built and in Okara in the Punjab where the military is trying to displace farmers who have worked there for generations. More recently, an estimated 30 000 IDPs are said to have been created as a result of the army crackdown in Wazistan.<sup>[3]</sup> Sri Lanka has suffered internal displacement as a result of the ethnic conflict between the Tamils and Sinhalese and Bhutan has faced a similar ethnic conflict between the so-called indigenous peoples and those who were descended from Nepali migrants. In Bangladesh, the tribals in the Chittagong Hill Tracts are experiencing displacement due to the resettlement of Bengali migrants and in Nepal, the Maoist conflict has resulted in large numbers of IDPs. The causes of internal displacement are multiple. It has been triggered by conflicts over ethnicity, religion, linguistic issues and territory, as well as by inter-state wars and by major development projects like dam building. However, it is a common and serious problem faced by all countries in South Asia which has so far been unsatisfactorily addressed.

### Protection Offered by the UN Guiding Principles on Internal Displacement (1998)

The *UN Guiding Principles on Internal Displacement (1998)* have been important in establishing an international framework for dealing with the problems faced by IDPs. First and foremost, it has enlarged and refined the definition of IDPs.<sup>[4]</sup> In point two of the introduction to the *Guiding Principles*, IDPs are 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 human-made disasters, and who have not crossed an internationally recognized State border."<sup>[5]</sup>

This was a more inclusive definition than earlier definitions – for example, by also includes under the term IDPs those who have been affected development induced displacement and by natural disasters. It has also been viewed as being a flexible and non-restrictive definition because the phrase "in particular" leaves open the possibility that there may also be other causes of internal displacement that have not been specified. In the context of internal displacement in South Asia, this definition incorporates all of the current major IDP groups and thus includes them under the framework of rights and protection outlined.

The document then proceeds to comprehensively outline the rights of IDPs and the responsibilities of their government and the international community to secure them. The guidelines establish the rights citizens to be protected by the government from displacement as well as to protection during any form displacement that has nonetheless been suffered by them. Furthermore, it defines the rights of IDPs to have access to humanitarian assistance and the choice to return, as well as delineating the responsibility of the state and international community to secure their resettlement and reintegration. In

the context of South Asia where there is no common regional framework to addressing the problem of forced migration and where countries like India have also declined to sign up to earlier international agreements like the *1951 Convention for the Protection of Refugees*, it will hopefully provide a useful for governments and the international community to forge a common approach to the problem of IDPs. In this context, the fact that the *Guiding Principles* have not been proposed as a new international treaty which would require the time-consuming ratification from all countries before it could be used and implemented, but instead are based on existing international human rights law and international humanitarian law, is a distinct advantage. Time has not had to be wasted in trying to gain formal assent to the *Guiding Principles*, which has facilitated the immediate focus on the crucial issue of implementation through working on popularizing the concepts and principles amongst governments, intergovernmental organisations and NGOs – encouraging governments to recognize their responsibilities towards IDPs and urging humanitarian organisations to equip themselves to address the problems of IDPs, so that they are able to provide assistance when required.

Perhaps one of the most crucial points outlined by the *Guiding Principles* is the relationship between the state and international humanitarian organizations in principle 25. It navigates the problems between sovereignty and responsibility by outlining a collaborative relationship and approach to internal displacement. It confirms that the “primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities” - Guiding Principle 25.1. However, it also establishes that international humanitarian organizations also have a role in dealing with IDPs. In Guiding Principle 25.2, it is argued that they,

“have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or interference in a State’s internal affairs and shall be considered in good faith.”

It also establishes that in a situation where the national authority has failed to provide the required support to its IDPs, it cannot withhold consent for humanitarian organizations to intervene. However, as the international controversy over the recent invasion of Iraq has established, over-riding sovereignty of a country is not an act which can or should be taken lightly or easily. Whilst international law may in theory override domestic law, in practice this is not the case. In order for international humanitarian organizations to access IDPs they will have to negotiate permission with the state – an antagonistic approach is unlikely to work. The emphasis on a collaborative approach to the problem of IDPs in the *Guiding Principles*, with the focus on using international pressure to urge governments to recognize their duties, is thus both more pragmatic and likely to be more conducive to success in South Asia – especially since many of the IDPs in the region are in the centre of politically sensitive conflicts.

### **Problems of Implementation**

The goals of the *Guiding Principles* are thus focused and limited to achieve realistic change. Its emphasis is on awareness raising, setting an international standard for the treatment of IDPs and getting support from governments and the humanitarian community to address their needs, dealing sensitively with the issue of sovereignty. However, there remains a lot to be done to facilitate the implementation of the principles. Firstly, regarding awareness raising, the formulation of the principles has been a crucial first step, but there has to be more emphasis on dissemination. One important task should be the translation of the document into indigenous languages.<sup>[6]</sup> It is also important to increase awareness amongst the general public about the problems and rights of IDPs, particularly amongst peoples who are at risk of becoming IDPs. Dolder, in his essay in *Refugee Quarterly* on “International Standards of Protection Versus the Effects of Two Decades of War on the Afghan People” highlights the fact that whilst war-affected Afghans had knowledge of their rights as civilians to not be the target of attack in a military conflict under Islamic law, they had no idea of the protection afforded to them under international law from the Geneva Convention. In the context of IDPs, where many are often beyond the reach of humanitarian aid because they have dispersed or are afraid to identify themselves, it is crucial that the public themselves are also educated about their rights and internalize these norms. Furthermore, a lot still needs to be done in terms of raising funds to establish programmes to deal with IDPs. Access is also still a major issue. An important problem still being faced in South Asia is the fact that whilst the UN is the major organization dealing with IDPs globally, in India, Bangladesh, Nepal and Pakistan UN agencies have not been able to work in this area.<sup>[7]</sup> The ICRC too has been able to do only limited work – for instance, in India it has had some very restricted access to conflict areas in the North East but there is still great reluctance to allow them to work extensively in Kashmir. Under the terms of the *Guiding Principles* which respects state sovereignty, access is still dependent on governmental permission, which can be problematic as facilitating access could be seen as a public acknowledgement of a crisis that the government is seeking to deny or minimize. As explained above, the concession of a conciliatory approach is probably the most realistic, but at the same time, whilst there may have been an increase in awareness, in terms of actual change this means that there have therefore been limited results so far. Another problem regarding implementation is the fact that since IDPs are often located in areas of intense conflict, the instability and lack of security can restrict the access and ability of humanitarian workers to reach them. One example of this would be the constant difficulties faced by development organizations to reach people in Maoist controlled areas of Nepal.

### **Conclusion**

The *UN Guiding Principles on Internal Displacement (1998)* mark an important turning point in the field of Forced Migration. There is now growing recognition of the need to address the serious problem of IDPs and to increase awareness of their plight. More specifically, they attempt to delineate a global consensus on how to approach the issue and by respecting state sovereignty and carefully negotiating a collaborative approach, it encourages the build up institutional support, both national and international, to help IDPs. It is a promising beginning. The assistance and guidance it offers has the potential to bring great relief for IDPs in South Asia, but it is only a foundation and a lot of work remains to be done in the area of implementation. Furthermore, it is crucial that the countries of South Asia adopt a dual approach so that as well as addressing the needs of IDPs, they also attempt to address the causes of internal displacement.

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[1] Roberta Cohen and Francis M. Deng, *Masses in Flight : The Global Crisis of Internal Displacement*, chapter 1.

[2] Monirul Hussein, "State, Identity Movements & Internal Displacement in the North East" in EPW and Sanjib Baru, "Citizens & Denizens : Ethnicity, Homelands and the Crisis of Displacement in N.E. India".

[3] [http://www.idpproject.org/global\\_overview.htm](http://www.idpproject.org/global_overview.htm)

[4] David A. Korn, *Exodus Within Borders : An Introduction to the Crisis of Internal Displacement*, p12.

[5] *UN Guiding Principles on Internal Displacement (1998)*, p1.

[6] Point made by C. R. Abrar in his lecture on "Forced Migration in South Asia", at the *Human Rights and Peace Studies Conference*, SAFHR, Nepal, November 2004.

[7] [http://www.idpproject.org/global\\_overview.htm](http://www.idpproject.org/global_overview.htm)

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## **Comment on the Situation of IDP Women in Sri Lanka**

By Shreyashi Chaudhuri

Sri Lanka is the scene of a brutal ethnic conflict from the 1980s. According to the estimates of **UNHCR and Refugees International** by 2001 some 800,000 people were displaced. Women and children form the vast majority among the IDPs and their situation is still worrying.

It has been stated from the beginning that although the government of Sri Lanka "assumed some responsibility toward the displaced it's policy has been heavily influenced by military imperatives." (Mario Gomez) In the conflict areas often the armed forces enjoyed a certain amount of impunity hence there were cases of rape, torture and sexual violence against women leading to their displacement. As early as in **1995 Francis Deng, the UN Special Representative on Internally Displaced People** reported that some women had been raped prior to their displacement. Human Rights observers from **Amnesty International** repeatedly reported that security forces in conflict areas in Sri Lanka were raping women. In one such report it was stated that: " Two Tamil women who were taken into custody in the Mannar district by naval personnel were allegedly gang raped by them on March 19. Tamil politicians and the Catholic Bishop of Mannar protested strongly and took the matter up with the authorities." This is not exceptional but a typical report. In a more recent report (28 Jan 2002) the Amnesty International categorically stated that among those raped by the security forces "many internally displaced women," were present. From such incidents it is apparent that in Sri Lanka rape has been used as an instrument to displace women and among those who are displaced many have been victims of rape.

The process of displacement has proved to be extremely debilitating for women. Among the vast majority of displaced families were a number of women headed households. **In a recent CEDAW committee report (CEDAW 26<sup>th</sup> Session January 2002)** it was stated that almost half of the female- headed households are in the hands of elderly women, many of whom are illiterate and devoid of adequate sources of income. This has taken heavy toll on women's mental and physical health. But internally displaced women often lack easy access to health care facilities according to the **UN Special Rapporteur** on Violence Against women. As for women's mental health this has not been considered an issue .One of the reasons why health care was such a problematic issue was that even though a wide range of international, national and local aid agencies provided assistance to the internally displaced the government restricted many relief supplies including medical provisions in the conflict areas

Among the IDPs who live in 348 government run camps, as reported in 2001 the situation of women is extremely serious. Old saris and other pieces of rag separate families from each other. There is severe lack of privacy in these camps. Often these camps known as welfare centers are heavily guarded and entry and exit is restricted . In such a situation young women are particularly vulnerable and according to one social worker there is alarming increase of pregnancy among teenage girls in these camps. The restriction of entrance and exit into camps affects the women who work outside the camps. Also the non- ratification of ILO Conventions regulating standards for women workers has affected adversely women IDPs in Sri Lanka who are forced to take up jobs in the unorganized sectors. Further, according to reports of Jesuit Refugee Service these camps are the recruiting grounds for agents who send these women to different countries to work as maids. Often they

are victims of sexual abuses but because of difficulty in getting jobs from these camps IDP women are forced to take up overseas assignments, which then drive them into abusive situations.

That like most other South Asian states the Sri Lankan state is weighed against women becomes apparent when one considers that often children of Sri Lankan women married to non nationals are not granted Sri Lanka citizenship and there is also an aversion to granting such children and the spouses of Sri Lankan women visas. This adversely affects the rights of single women of marriageable age who are displaced as this works as a deterrent for these women to seek refugee status because in such a situation if they marry a non national then it becomes difficult for them to come back as their children are not granted citizenship. Such stipulations also adversely affect the chances of returning refugee women to Sri Lanka if they are married to non nationals. The seriousness of the situation becomes apparent when one considers that after the Thailand Peace Talks Sri Lanka refugees are encouraged to return home from most of the asylum giving states.

The Thailand Peace Talks have resulted in the formation of a joint Task Force for Humanitarian and Reconstruction Activities. It has also resulted in the formation of a Joint Committee to address the return of IDPs to High Security zones. Although it is still early days but many women's rights organizations feel that they are not consulted by either of these groups. This can create problems because when in early 1990s when the political situation had improved many women returned to their homes they were then once again displaced and sometimes killed both by LTTE and security forces. In such a situation it is best to involve women's groups to explore whether it is safe for women to return to High Security zones. The strip searching of a Sinhalese woman in broad day light in Sri Lanka on the suspicion that she is a Tamil suicide bomber shows that situation of IDP women can be precarious (Case reported by "Women's Rights Watch Year Report 1999" in Refugee Watch, March 2000). Now that Sri Lanka is nebulously poised for peace any decision on the IDP should consider that a large part of the population are formed of women and unless they are consulted on any decision about their future it will impact adversely on the peace process.