

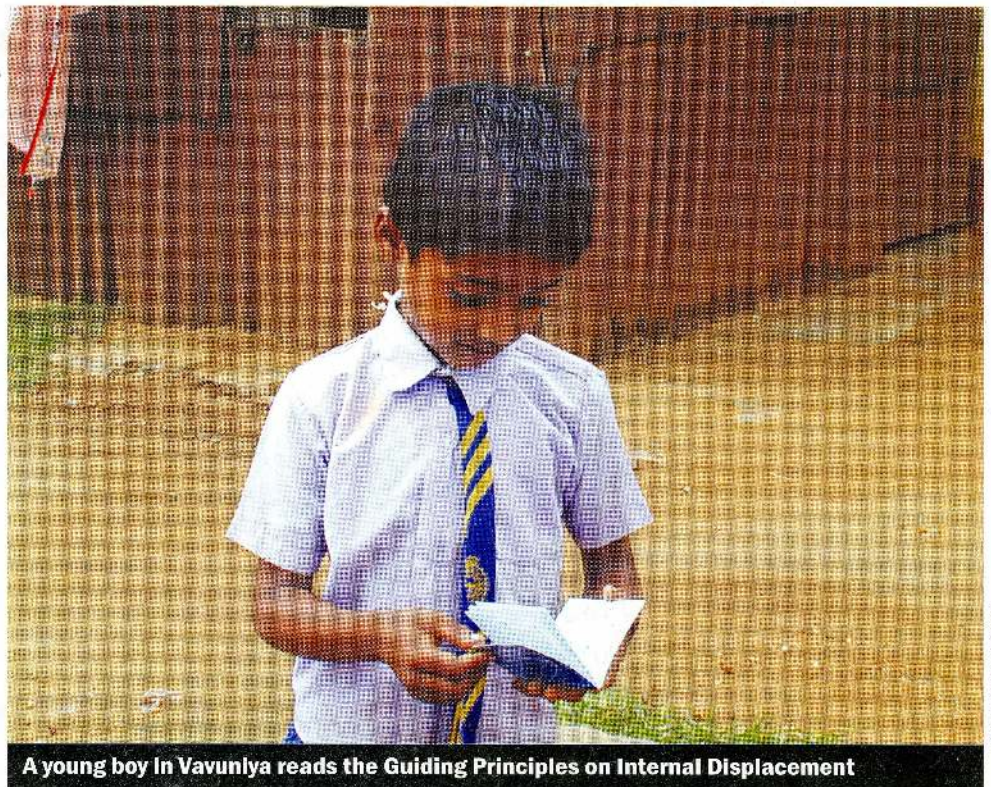
UNHCR puts the Guiding Principles on Internal Displacement into practice in Sri Lanka

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UNHCR, the United Nations refugee organisation, is mandated by the United Nations to lead and coordinate international action for world-wide protection and assistance to refugees and displaced persons.



A young boy in Vavunlya reads the Guiding Principles on Internal Displacement

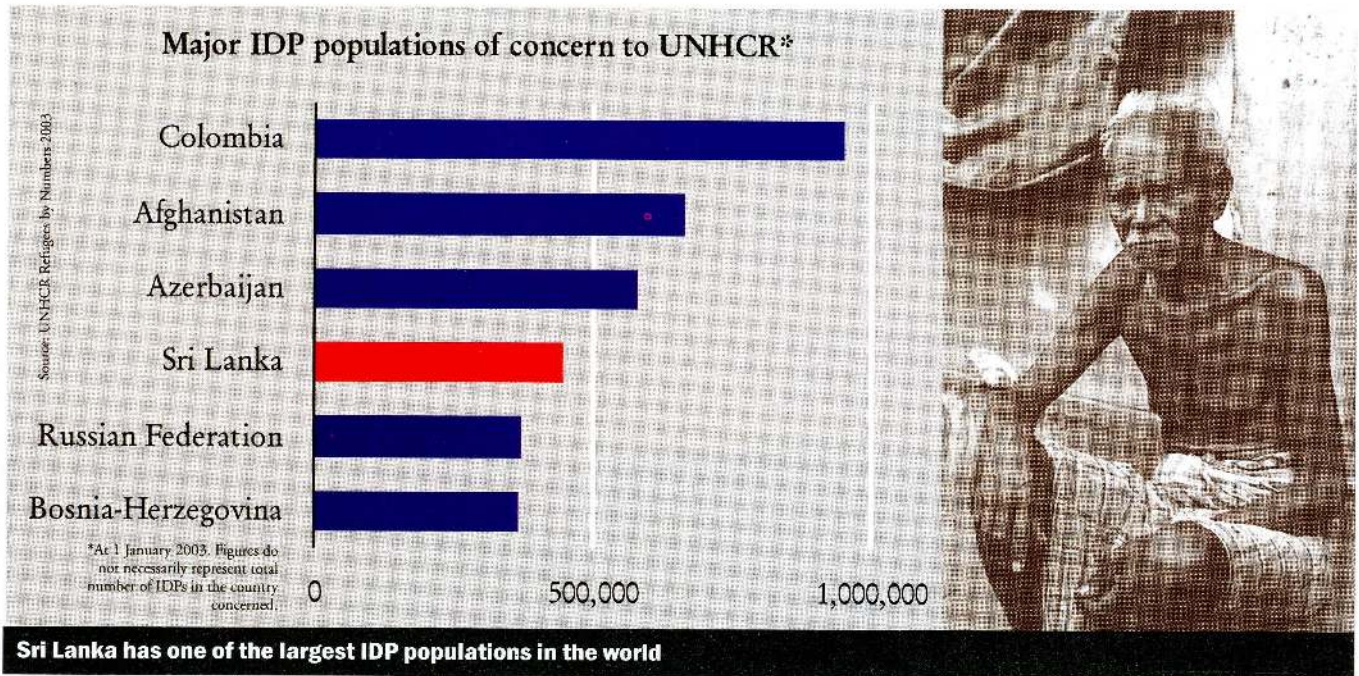
Dear Reader,

In this second edition of *Focus on Protection* we hope to familiarise the reader with the *Guiding Principles on Internal Displacement* and their applicability to protection issues. The *Guiding Principles*, finalised in 1998 after extensive discussion and negotiation, represent the first authoritative statement on the obligation of States and the international community to protect internally displaced persons (IDPs).

The *Guiding Principles* are particularly relevant to Sri Lanka, which despite its evolving peace process, will continue to face significant challenges in protecting and assisting the hundreds of thousand of remaining IDPs. In this issue, we link the *Guiding Principles* with field-based examples of protection responses. In doing so, we hope to shed light on the importance of the *Guiding Principles* to protection issues on the ground. We hope that you enjoy the second edition of *Focus on Protection* and look forward to your continued readership.

Neill Wright
UNHCR Representative in Sri Lanka

Internal Displacement: A Growing Problem



Internal displacement occurs when people are forced or compelled to leave their homes and relocate in another part of the country. These people can be uprooted from their homes for any number of reasons - armed conflict, internal strife or systematic violation of human rights.

Globally, internal displacement is a growing problem. In 1982, there were an estimated 1.2 million internally displaced persons (IDPs) scattered through 11 countries. Two decades later, there are as many as 25 million in 40 countries.

One of the largest IDP populations in the world is found in Sri Lanka, where an estimated 800,000 people have been internally displaced as a result of the two decade civil war. Now, with a formal ceasefire in place since early 2002, the situation of IDPs in Sri Lanka has entered a new phase. By mid-2003, an estimated 300,000 people had sought to return voluntarily to their areas of origin.

A vulnerable people ...

Like refugees, IDPs are especially vulnerable people. They have been forced to flee their homes and move elsewhere; they often have little or no shelter, food or possessions; access to basic facilities, such as health and education, may be poor or non-existent; their movement into a new area can disrupt the local community; they may face repeated displacement;

they often face discrimination; their fundamental rights and freedoms are too easily compromised.

... without protection under international law...

Despite their vulnerability, IDPs have historically had little legal protection – be it under international or domestic law. Since World War II, refugees have been protected under international law. The 1951 *Convention Relating to the Status of Refugees* and its 1967 *Protocol* set out a legal framework that granted refugees fundamental rights that cannot be revoked by national governments. But the drafters of those laws did not extend the same international legal rights to IDPs. The prevailing

opinion at the time was that since IDPs had not crossed an international border, they were not to be treated as an international issue. Instead, protection and assistance of IDPs was left in the hands of the governments of the countries in which the people were displaced.

... or under domestic law

However, state protection has tended to be of little comfort to IDPs. Most live in countries whose governments are unable or unwilling to provide adequate protection and assistance. These countries are typically convulsed by civil war and inter-ethnic strife. Many, such as Afghanistan, Liberia and Somalia, have been described as “failed states.” They are *literally* unable to meet the humanitarian needs of their own citizens. As a result, IDPs – denied either international or domestic legal protection – have often been left to fend for themselves.

Protecting persons forcibly uprooted within their own countries by violent conflicts, gross violations of human rights, and other traumatic events is one of the most daunting challenges of our time.

*Francis M. Deng
Representative of the UN Secretary
General on IDPs*

The Guiding Principles on Internal Displacement

During the 1990s, the international community became increasingly aware that IDPs had been left without legal protection. Consequently, the United Nations commissioned a study into the problem, which led, in 1998, to the creation of the *Guiding Principles on Internal Displacement*. In honour of Francis M. Deng, Special Representative of the UN Secretary-General on Internally Displaced Persons, the *Guiding Principles* are often known as *Deng's Principles*.

What are the *Guiding Principles*?

The *Guiding Principles* are the first authoritative statement on the rights of the displaced, as well as the obligations that both national and international authorities have towards IDPs. They are drawn from established international humanitarian and human rights law, as well as relevant refugee law.

The 30 principles are not legally binding. But they do provide a framework to guide anyone whose work or actions affects IDPs – including Governments and their agencies, United Nations agencies and non-government organisations. In this way, the development of the *Guiding Principles* is an important step in the evolution of the world's

The *Guiding Principles* are structured into five sections:

- Section I** : General Principles
- Section II** : Principles Relating to Protection from Displacement
- Section III** : Principles Relating to Protection during Displacement
- Section IV** : Principles Relating to Humanitarian Assistance
- Section V** : Principles Relating to Return, Resettlement and Reintegration

Community Awareness

To raise awareness of the *Guiding Principles* and what they mean at the field level, UNHCR distributes copies of the principles – in Sinhala, Tamil and English – to a wide range of groups throughout the country. It also conducts training sessions that focus on the Principles. *Focus on Protection* spoke to David Del Conte (pictured), a UNHCR field officer in Batticaloa, about these training sessions.

Who attends the training sessions?

We do different sessions for different groups: civilian groups, such as people living in welfare centres or return communities; civic groups, like Lions Clubs and fishing societies; as well as sessions with the Sri Lankan security forces and with the LTTE.

The Principles are founded in international law. Does that mean they can be hard to understand?

The Principles address issues that people actually experience every day in their own lives. They're also arranged in a way that is easy to follow: before, during and after displacement. With that in mind, now is a good time in Sri Lanka to gain some perspective, to be thinking about what has happened in the past and what needs to change in the future.

How do you run the sessions?

The idea is not to hold a lecture. It works best if we can just sit down in a circle with everybody and chat. And we try to relate the Principles to things that people have experienced in their own lives.

How aware are IDPs of their rights?

My impression is that most people have very little understanding. So it's extremely valuable for them to be able to see, in simple language, internationally-accepted principles that spell out either their rights as IDPs, or, in the case of other groups, their obligations towards IDPs. But it's one thing to know your rights. It's another to know who can help you enforce those rights. So the sessions also identify organisations like the Human Rights Commission, the Legal Aid Foundation, and international organisations like UNHCR and UNICEF, amongst others, that can help in that way.

What do people have when they leave the session?

UNHCR produces copies of the *Guiding Principles* in Tamil, Sinhala and English, as well as pocket calendars that summarise the Principles. So they at least leave with a hard copy of the Principles, which I think is very useful. But hopefully IDPs also leave with the crucial knowledge that they have rights – internationally-accepted rights – and that there are organisations out there who can help them have those rights respected. And hopefully other groups leave with a greater understanding of the obligations they have towards IDPs.



Section I: General Principles

Section I sets out, in broad terms, the fundamental rights of IDPs and the obligations owed to them. These rights are already implicitly guaranteed by various international conventions, including the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights*. However, Section I explicitly grants these rights to IDPs.

It does this through four inter-related principles, which broadly address the following:

- Equal rights and equal obligations for IDPs
- Universal application of the *Guiding Principles*
- The right for IDPs to seek and enjoy asylum
- Primary responsibility for IDP protection lies with the State

Equal rights and obligations for IDPs

In support of **Principle 1**, which emphasises the fundamental rights of IDPs, UNHCR designs what are known as “rights-based” programs - programs that primarily aim to fulfil people’s rights. In this way, UNHCR’s programs focus on the displaced as possessors of rights, rather than as victims. For instance, as part of its work to address sexual and gender-based violence (SGBV), UNHCR is raising awareness on the basic rights of women enshrined in various international instruments. This strategy has proven more effective than simply highlighting the number of victims of such violence.

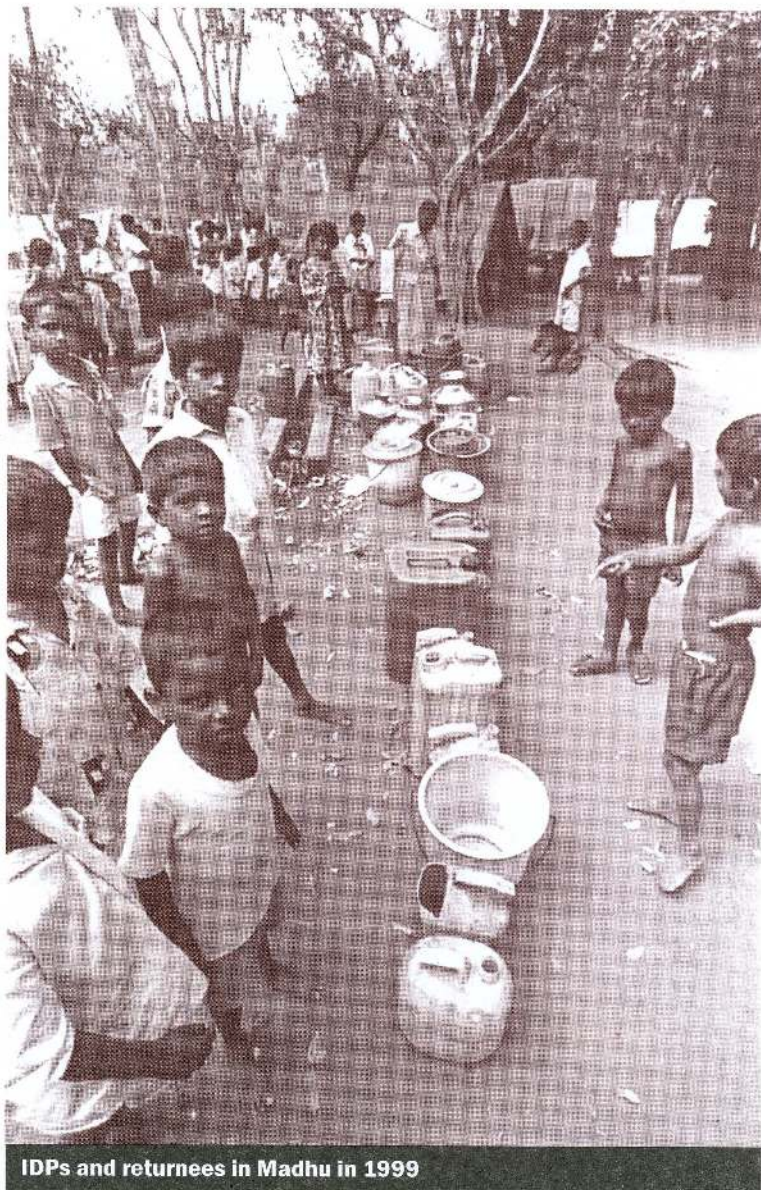
In addition, **Principle 4** highlights the special needs of extremely vulnerable individuals. Protection of vulnerable groups lies at the heart of UNHCR’s mandate, and much of UNHCR’s protection work is geared towards securing rights and assistance for these groups. For example, in Sri Lanka UNHCR has a variety of programs addressing SGBV and the special needs of children.

Universal application of the Guiding Principles

Principle 2 states that the Guiding Principles shall be “observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction.” In Sri Lanka, UNHCR has played a robust role in advocating with all politically influential parties, including both the Government of Sri Lanka (GoSL) and the Liberation Tigers of Tamil

Certain IDPs, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

Principle 4



IDPs and returnees in Madhu in 1999

UNHCR / M. Kobayashi / 1999

Eelam (LTTE). While negotiations with non-state actors are always sensitive, UNHCR feels that its active engagement with the LTTE has significantly expanded the protection available to IDPs.

Right to seek and enjoy asylum

Principle 2 states that IDPs, despite being guaranteed rights under the *Guiding Principles*, still retain the right to seek asylum and refugee status abroad, as stipulated by international refugee law. In keeping with this, UNHCR works to ensure that Sri Lankan IDPs with a well-founded fear of persecution are able to seek asylum abroad.

Primary responsibility lies with the State

Principle 3 can be summarised by the catchphrase *Sovereignty Means Responsibility*. Throughout the world, UNHCR advocates vigorously with national authorities that they accept their responsibilities regarding IDPs. In Sri Lanka, UNHCR’s partnership with the GoSL is centred on a close working relationship with the Ministry of Rehabilitation, Resettlement and Refugees (MRRR).

Section II: Protection from Displacement

Section II is concerned with protecting IDPs from displacement. Together, Principles 5 to 9 affirm that all human beings have the right to be protected from arbitrary displacement, and that “national authorities and international actors must respect their obligations under international law to avoid conditions leading to displacement”. But if displacement does occur, then **Principle 8** stipulates that it should not occur in a manner “that violates the right to life, dignity, liberty and security of those affected”.

Prohibitions on arbitrary displacement

Principle 6 sets out the situations in which arbitrary displacement is prohibited. In the context of armed conflict, for example, arbitrary displacement is prohibited “unless the security of the civilians involved or imperative military reasons so demand.” Principle 6 also notes that if displacement does occur, it should last no longer than necessary.

Satisfactory conditions during displacement

Principle 7 states that once displacement has occurred, authorities should provide IDPs with “satisfactory conditions of safety, nutrition, health and hygiene.”

In Sri Lanka, UNHCR works with the Government to respond rapidly to crisis situations to improve potentially poor conditions for IDPs. For example, following a major military offensive in 1999, displaced families began to flee westward to the “open relief centre” at Madhu. Fearing overcrowding at Madhu, UNHCR staff responded quickly, meeting groups of IDPs en route and assessing and attending to their humanitarian needs. Once it had determined that the displaced were secure in their locations, UNHCR provided shelter and protection services.

But armed conflict has not been the only cause of displacement in Sri Lanka. For example, when southern Sri Lanka was hit by floods in May 2003, UNHCR and the GoSL worked to identify alternatives to displacement. In cases where displacement was necessary in order to



UNHCR / R. Cheluisan / 2002

Among other groups, Principle 9 provides special protection to subsistence farmers whose livelihood depends on the land

provide safety, UNHCR worked with the Ministry of Social Welfare to ensure adequate accommodation and delivery of basic services.

It is also important to ensure that new cycles of displacement do not occur when a conflict ends. For instance, many IDPs in the North and East have returned home to find their property inhabited by other IDPs. When the returnee reclaims their land, the IDPs who have been living there – so-called “secondary occupants” – find themselves again displaced. In a study completed in May 2003, UNHCR and the Human Rights Commission considered how such disputes may be resolved, made recommendations on the arbitration of land and property dilemmas and explored the possibility of available land being allocated to the landless.

Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.

Principle 6

People with special dependency or attachment to their lands

Principle 9 notes that “States are under a particular obligation to protect against displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.” In Sri Lanka, this can apply to various groups, including: subsistence farmers whose livelihood depends on the land; Muslims and Sinhalese living in the North and East; Up-Country Tamils, who mainly work as tea estate laborers. Taking the last group, Principle 9 means that the national authorities have a responsibility to ensure Up-Country Tamils are not displaced from the hill country. In this regard, UNHCR continues to encourage the GoSL to grant citizenship to these people – a measure that would help reduce the vulnerability of Up-Country Tamils to displacement. It is hoped the GoSL’s new law to achieve this is enacted soon.

Section III: Protection during Displacement

Section III addresses the period *during* displacement. This is a time when IDPs are particularly vulnerable, so it is essential that they have protection from human and civil rights violations, such as military attacks, forced recruitment, inhuman or degrading treatment, detention, internment, and forced separation from their families.

These protection issues are addressed in *Guiding Principles* 10 to 23. The first set of principles focuses on the physical safety and security of individuals; the second on family rights; the third on economic and social rights; and the fourth on civil, political and other similar rights.

Principles 10-15: Enhancing Protection of Physical Security and Freedom of Movement

Drawing from human rights and humanitarian law, *Guiding Principles* 10-15 set out the most basic rights of IDPs. These include:



UNHCR workers interview IDPs in a welfare centre in Vavuniya District

Principle 10:
Right to life

Principle 11:
Right to dignity and integrity of person

Principle 12:
Protection against arbitrary arrest and detention

Principle 13:
Protection from forced military recruitment and child recruitment

Principle 14:
Liberty of movement/Choice of residence

Principle 15:
Right to seek asylum

In effect, all UNHCR activities are designed to support the fulfilment of the fundamental rights embodied in **Principles 10 and 11**: the right to life; and the right to dignity and integrity of person. In addition, UNHCR responds to specific allegations of violations of the rights embodied in Principles 10-15 - when, for example, there is an allegation of forced recruitment, or someone being arbitrarily placed in detention. Such interventions usually proceed as described in the box below:

General Pattern for Intervention in Support of Principles 10-15

- STEP 1** : Complainant approaches UNHCR
- STEP 2** : UNHCR Protection Officer hears the complaint
- STEP 3** : UNHCR discusses complaint with relevant authorities or other international organisations whose mandate overlaps (such as UNICEF, which has a mandate regarding child recruitment).
- STEP 4** : If requested, UNHCR refers complaint to the Legal Aid Foundation for legal counselling
- STEP 5** : If complaint is part of a larger trend, UNHCR may undertake advocacy concerning the issue
- STEP 6** : UNHCR may also highlight trends (not specific cases) to the Sri Lanka Monitoring Mission



UNHCR / M. Kobayashi / 1999

Principle 13 protects displaced children from being recruited or from taking part in hostilities

The *Guiding Principles* urge those responsible for assisting and protecting IDPs to preserve family unity. Splitting families apart deprives each member of the fundamental right to respect of his or her family life. The family unit also provides a significant measure of security to its members - so separating family members also undermines other rights. In particular, children and women become vulnerable to exploitation when they are separated from their relatives.

Families which are separated by displacement should be reunited as quickly as possible.

Principle 17

UNHCR has been particularly active in ensuring that IDPs, along with other members of the public, are not subject to forced recruitment or child recruitment. In addition to responding to

individual cases, UNHCR has been effective in working with the LTTE to improve compliance with Principle 13. UNICEF is a key partner in these activities.

In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.

Principle 13

With regards to Principle 14, UNHCR has worked to ensure freedom of movement for IDPs. In recent years, UNHCR has worked with the GoSL to reduce restriction of movement as a result of the government's "pass system." In place for much of the two-decade conflict, this system was a significant obstacle to the free movement of IDPs.

Another key constraint to freedom of movement in the North and East of Sri Lanka is the continued presence of mines and unexploded ordnance. UNHCR supports the United Nations Mine Action Group in its mine clearance activities, and also works through schools and community centres

to raise awareness on the danger of remaining mines.

All IDPs have the right to know the fate and whereabouts of missing relatives.

Principle 16

IDPs are frequently separated from their families. This problem is addressed by Principles 16 and 17, which recognise the importance of preserving the family unit despite displacement.

Principles 16 & 17: Preserving Family and Community



UNHCR / B. Barrett / 2002

Principle 17 asserts that family members who wish to remain together shall be allowed to do so

**Principles 18, 19, 21 & 23:
Protection of Economic, Social and Cultural Rights**

Because of their circumstances, IDPs often find it difficult, if not impossible, to provide for themselves. They may have difficulty accessing land; health and education services may be lacking; it may be extremely difficult to earn an income. *Guiding Principles* 18, 19, 21 and 23 address these sorts of problems by spelling out the economic, social and cultural rights that are applicable to the displaced. These include:

Principle 18:
Right to an adequate standard of living

Principle 19:
Right to health and medical care

Principle 21:
Property rights

Principle 22:
Right to participate in economic activity

Principle 23:
Right to education

Principles 18, 19 and 23:
Economic, social and cultural rights for women

Among its programmes to support these principles, UNHCR operates income-generation projects designed to get IDP families and communities back on their feet. IDPs can also undertake skills training, which further builds their capacity to earn income and enables the project itself to be self-sustaining. In keeping with the *Guiding Principles*, income-generation projects are specifically targeted at

Education should respect [an IDP's] cultural identity, language and religion.

Principle 23

enabling women to become self-sufficient. For example, UNHCR supports women's co-operatives that assist women to develop vocational skills, such as sewing and garment manufacturing.

As mentioned previously, in early 2003 UNHCR and the HRC, in support of Principle 21, jointly

commissioned a comprehensive study into the issue of IDP and returnee property rights. Among various recommendations, the study proposed that land, housing and property issues be addressed in any Final Peace Agreement, and that the GoSL and the LITE should establish a Commission to oversee the resolution of property disputes.

Principles 20 & 22: Protecting Basic Freedoms

Guiding Principles 20 and 22 address the civil and political rights of IDPs. These include an IDP being recognised as a person before the law, and fundamental rights such as freedom of thought, conscience, religion, belief, opinion and expression.

Every human being has the right to recognition everywhere as a person before the law.

Principle 20

Recognition as a person before the law is a universal human right. Without it, IDPs are vulnerable to many forms of abuse, including unreasonable barriers to travel within and outside their country, ownership of property, and recognition of marriages, births and deaths. A common hurdle for IDPs attempting to exercise their legal rights is lack of documentation. UNHCR supports IDPs to replace lost or damaged documents; it assists them to prove their identity to local and national authorities; it lobbies the authorities to respect other civil and political rights of IDPs, such as the right to free assembly and the right to vote; and it intervenes on behalf of individuals in instances of alleged violations of these rights.



UNHCR / F. Chaisani / 2002

Principle 22 asserts an IDP's right to participate in economic activity

Section IV: Humanitarian Assistance



UNHCR / B. Barrett / 2002

Principle 25 asserts that all authorities shall grant and facilitate the free passage of humanitarian assistance

Principle 25, that all inhumanitarian aid workers follow established codes of conduct. For its part, UNHCR encourages its staff members to read and sign codes of conduct. UNHCR also provides its staff with regular training on the ethical delivery of humanitarian aid.

To be able to effectively deliver protection services, humanitarian agencies need to co-ordinate their activities. To this end, UNHCR has developed a Protection Network, involving all of its protection-focused implementing partners. The network is expected to meet at a national level twice a year and at a regional level every month. This type

of regular consultation will improve consistency in protection assistance policies.

Because of their predicament, IDPs often need to be able to access humanitarian assistance. Section IV (Principles 24-27) of the *Guiding Principles* addresses this issue by setting out the roles and responsibilities of national authorities and international organisations in providing humanitarian assistance to IDPs.

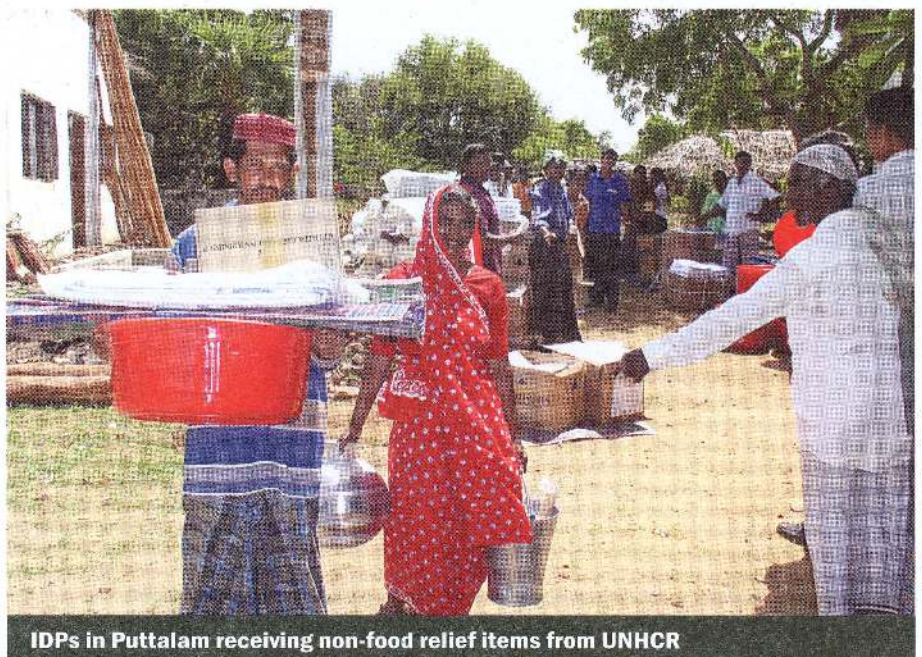
The primary duty and responsibility for providing humanitarian assistance to IDPs lies with national authorities.

Principle 25

The *Guiding Principles* clearly state that national authorities bear the primary responsibility for providing humanitarian assistance to IDPs. In support of the principle of national responsibility, UNHCR works with national authorities to build their capacity to deliver humanitarian assistance to all IDPs. For instance, UNHCR has a strategic partnerships with the MRRR, the HRC and the Legal Aid Foundation of the Bar Association of Sri Lanka. UNHCR supports these crucial national institutions with both financial and technical resources.

The *Guiding Principles* also reserve a role for international organisations and humanitarian aid agencies.

Principle 25 notes that, when delivering humanitarian assistance, national and international actors must prioritise the protection needs and human rights of IDPs. At times this entails making sensitive political, moral and ethical decisions. It is therefore imperative, as noted in



IDPs in Puttalam receiving non-food relief items from UNHCR

Section V: Return, Resettlement and Reintegration

Section V of the Guiding Principles is concerned with the way in which IDPs achieve a solution to their displacement, whether that means returning home and reintegrating into their original community, relocating and integrating into a community elsewhere, or remaining in their place of displacement and integrating into the local community.

Principles 28 to 30 affirm that the authorities have primary responsibility for supporting IDPs through this process. The Principles stress that the solution an IDP pursues must be voluntary. These two notions are linked by Principle 28, which obliges national and international authorities to help create conditions conducive for return or for other solutions to displacement.

UNHCR supports this principle in a variety of ways. For instance, UNHCR is working to clarify property and land rights in key return areas. It is raising awareness about remaining mines and unexploded ordnance. And it is working with national authorities, such as the MRRR and the Office of the Commissioner General, to ensure the reconstruction of damaged infrastructure in the North and East – a crucial step if people in the region are to have access to adequate health care and other basic services.

Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Principle 28



A group of IDPs in Vavuniya District about to board a bus as part of a Government-organised return

To support returning IDPs to reintegrate into their original communities, or to locally integrate in their displacement communities, UNHCR is conducting a Peaceful Coexistence Initiative. Through training and workshops, this program brings together Sinhalese, Tamils and Muslims in both return areas and in the communities that host IDPs. Once the training sessions are completed, participants are asked to draft a Peace Plan for their community. The groups are also encouraged to work together to build wells, latrines, community centres and schools, and to form co-operatives designed to foster income-generation.

In a joint survey conducted in mid-2002, UNHCR and the MRRR asked IDPs how they wished to resolve their displacement. Sixty three per cent of respondents said they would like to return home, 25 per cent said they would like to stay where they were, 3 per cent said they wanted to relocate elsewhere and 7 per cent were undecided. With many of these displaced living in welfare centres, UNHCR continues to engage the GoSL to ensure that any IDPs opting to leave welfare centres do so voluntarily.

UNHCR also works in partnership with the GoSL to enable displaced communities to assess conditions in their home areas for themselves. In Puttalam District, for instance, the Government, with the support of UNHCR, sponsored bus trips for leaders of the IDP community to assess their home areas in Mannar District. The IDPs were able to gain first hand knowledge about the security and human rights situation in Mannar, so they could make an informed decision about returning.



Mined areas remain a threat to IDPs returning to their places of origin

SRI LANKA IDP MOVEMENTS BY DISTRICT (within January 2002 - July 2003)



Ministry of Rehabilitation, Resettlement & Refugees
Policy Planning & Co-ordination Unit

LEGEND

- UNHCR Representation
- UNHCR Field office
- UNHCR Satellite office

DISTRICT

Major IDP Returnee Movements

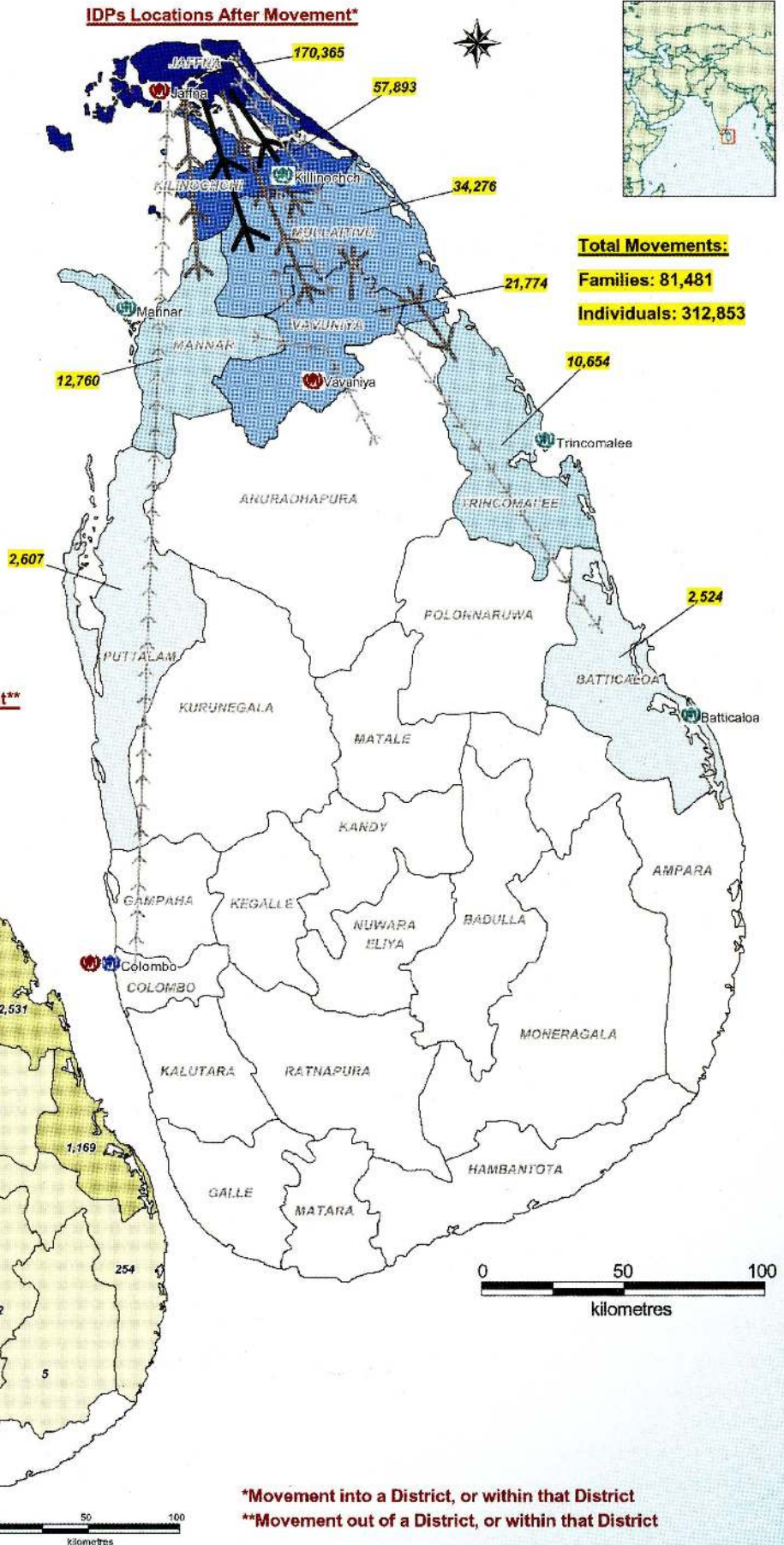
- 25,000 to 50,000
- 5,000 to 25,000
- 1,000 to 5,000

IDPs Locations (Individuals) After Movement

- 100,000 to 170,365
- 50,000 to 100,000
- 20,000 to 50,000
- 10,000 to 20,000
- 1 to 10,000

IDPs Locations (Individuals) Prior to Movement

- 85,000 to 109,058
- 50,000 to 85,000
- 15,000 to 50,000
- 1,000 to 4,000
- 1 to 1,000



*Movement into a District, or within that District
**Movement out of a District, or within that District

The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Sources: UNHCR, Ministry of Resettlement, Rehabilitation, and Refugee, July 2003

We thank you for your interest in UNHCR's protection activities. For more information please contact any one of our offices.

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