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GRUPOS E INDIVIDUOS ESPECÍFICOS

ÉXODOS EN MASA Y PERSONAS DESPLAZADAS

**Informe del Representante del Secretario General sobre los desplazados
internos, Sr. Francis Deng, presentado de conformidad con la
resolución 2002/56 de la Comisión de Derechos Humanos**

Adición

**Informe sobre la Conferencia Internacional sobre los Desplazados
Internos en la Federación de Rusia***

Resumen del informe de misión

El Representante del Secretario General sobre los desplazados internos, de conformidad con lo dispuesto en la resolución 2002/56 de la Comisión, en la que se alienta a difundir y aplicar los Principios rectores aplicables a los desplazamientos internos en seminarios regionales y de otro tipo sobre el desplazamiento, y se lo anima a que siga organizando esos seminarios o prestándoles su apoyo, en consulta con las organizaciones regionales, intergubernamentales y no gubernamentales y otras instituciones competentes, tiene el honor de transmitir a la Comisión el

* El resumen del informe de misión se distribuye en todos los idiomas oficiales. El informe sobre la Conferencia, que figura en el anexo del resumen, se distribuye solamente en el idioma en que fue presentado y en ruso.

informe de la Conferencia Internacional sobre los Desplazados Internos en la Federación de Rusia, organizada por el Instituto de Estado y de Derecho de la Academia de Ciencias de Rusia, Partnership on Migration y el proyecto sobre los desplazados internos de la Brookings Institution, y celebrada en Moscú los días 25 y 26 de abril de 2002.

Los objetivos de la Conferencia eran, entre otros, examinar la situación de los desplazamientos internos a nivel mundial en relación con la Comunidad de Estados Independientes (CEI) y, en particular, con la Federación de Rusia; continuar promoviendo el desarrollo de marcos institucionales y jurídicos en la Federación de Rusia para tratar la cuestión de los desplazamientos internos y prestar apoyo a las personas del Gobierno y la sociedad civil interesadas en reforzar la capacidad nacional y local en esa esfera; examinar la aplicación de los Principios rectores aplicables a los desplazamientos internos, y elaborar un programa de acción.

El programa de acción que se preparó en la reunión incluye propuestas de medidas nacionales, regionales e internacionales.

A nivel nacional, y teniendo en cuenta que la responsabilidad primordial de atender las necesidades de protección y asistencia de los desplazados internos incumbe al Gobierno de la Federación de Rusia, se señaló que éste tenía que desempeñar una función mucho más eficaz. En particular, era necesario establecer urgentemente una política de migración coherente que, entre otras cosas, hiciera hincapié en las normas fundamentales de derechos humanos que permiten que exista un equilibrio entre el respeto de los derechos individuales y la protección de los grupos étnicos y nacionales contra la discriminación; considerara la posibilidad de establecer una legislación especial para los desplazados internos, a fin de distinguirlos de otros grupos de migrantes forzosos, especialmente los refugiados; permitiera solucionar los numerosos problemas con que se enfrentan los desplazados internos, en particular mejorando su acceso a alimentos, medicinas y alojamiento, protegiéndolos contra la discriminación y las amenazas a su seguridad personal y concediendo a todos ellos la condición de migrantes forzosos para facilitar su acceso a los servicios básicos; y diera solución a los problemas relacionados con el desplazamiento interno, en particular garantizara el retorno de los desplazados a sus lugares de origen en condiciones seguras y dignas y de forma voluntaria, teniendo en cuenta que a la hora de proponer soluciones se han de tener presentes los deseos de los desplazados y considerar la posibilidad de que se integren en el lugar en que están residiendo o de que se reasienten en otro lugar de la Federación de Rusia, de conformidad con las normas de derechos humanos relativas a la libertad de circulación y elección del lugar de residencia.

Se señaló que para establecer una política de migración coherente era fundamental que mejoraran las relaciones entre los grupos étnicos y nacionales en las zonas de integración. A tal efecto, se recomendó que se organizaran actividades de educación y capacitación tanto para las comunidades de acogida como para los desplazados internos, y actividades de capacitación para las autoridades nacionales y locales y los abogados y miembros del poder judicial acerca de los derechos de los desplazados y del principio de no discriminación. Además, se consideró que era de vital importancia dotar a las organizaciones no gubernamentales (ONG) de los recursos necesarios para poder contribuir de forma importante a organizar los seminarios y talleres de capacitación necesarios. Los Principios rectores aplicables a los desplazamientos internos podrían servir de marco para esos programas. También se hizo hincapié en la importancia de contar con normas uniformes que definieran la relación entre las autoridades locales y nacionales, de manera que las prácticas de las autoridades a todos los niveles fueran compatibles

con los acuerdos internacionales de derechos humanos. Se recomendó que se asignara una importante función de supervisión a la Oficina del Representante del Presidente de la Federación de Rusia para los Derechos Humanos en la República de Chechenia y que se le concedieran los recursos necesarios para poder responder eficazmente a las violaciones de los derechos humanos de los desplazados internos.

Además, se recomendó que se intensificara la cooperación entre el Gobierno y las organizaciones regionales e internacionales, a fin de que éstas pudieran complementar y respaldar las iniciativas locales y nacionales. Esa cooperación debería consistir, entre otras cosas, en permitir que las citadas organizaciones tuvieran acceso totalmente libre a las zonas de desplazamientos y reforzaran su presencia en los lugares en que fuera necesario. Además, la política de migración debería garantizar el respeto de los principios humanitarios internacionales relativos a la protección y seguridad de los trabajadores humanitarios y prever el enjuiciamiento de los autores de secuestros y asesinatos de funcionarios locales e internacionales dedicados a prestar asistencia humanitaria.

Por último, se destacó que en el desarrollo de la política de migración deberían participar activamente las ONG, la sociedad civil y estudiosos en la materia, en particular para realizar investigaciones, supervisar situaciones concretas, adoptar decisiones sobre los componentes de la política y movilizar un apoyo amplio por parte del público. A tal efecto, se consideró de vital importancia dotar a las ONG de los medios para funcionar de forma eficaz y darles acceso a las zonas de desplazamientos.

Se subrayó que, además de servir para preparar una política nacional de migración, los Principios rectores eran un instrumento muy útil que se debía utilizar para analizar las leyes y normas administrativas de ámbito local y nacional, tanto en vigor como futuras, a fin de garantizar que sus disposiciones fueran compatibles con las normas internacionales. A ese respecto, se propuso crear un grupo de trabajo de expertos para llevar a cabo un estudio comparativo de las leyes federales y locales en el marco de los Principios rectores.

A nivel regional, se recomendó que el Gobierno prestara apoyo activamente a la Organización para la Seguridad y la Cooperación en Europa y el Consejo de Europa y les facilitara el acceso a los desplazados, pues la labor de ambas organizaciones en relación con los desplazamientos internos en la Federación de Rusia era muy importante. Se instó al Gobierno a que, como miembro de ellas, respaldara una mayor integración de la cuestión de los desplazamientos internos en sus actividades, así como el uso de los Principios rectores como marco para sus políticas y programas en pro de los desplazados.

A nivel internacional, se recomendó que el Gobierno facilitara el acceso de las organizaciones humanitarias internacionales a los desplazados y respaldara sus actividades destinadas a responder a las necesidades de asistencia, protección, reintegración y desarrollo de los desplazados internos. En particular, habría que brindar apoyo a la Oficina de Coordinación de Asuntos Humanitarios, que se encarga de coordinar la ayuda internacional, así como a las diversas organizaciones internacionales y ONG que llevan a cabo programas sumamente necesarios.

La Conferencia instó al Gobierno a que adoptara las medidas adecuadas para que el Representante del Secretario General sobre los desplazados internos pudiera realizar una visita al Cáucaso del norte y observar en directo la situación de los desplazamientos, así como entablar un diálogo con las autoridades y otros agentes pertinentes orientado a la búsqueda de soluciones. También se propuso poner en marcha un proceso similar al llevado a cabo en 1996 en relación con la Conferencia regional sobre los problemas de los refugiados, las personas desplazadas, otros emigrantes involuntarios y los repatriados en los países de la Comunidad de Estados Independientes y Estados vecinos afectados, esta vez prestando atención exclusivamente a la Federación de Rusia y al problema de los desplazamientos internos para reunir al Gobierno, las ONG y la comunidad internacional y tratar de encontrar soluciones eficaces.

Annex

Report of the International Conference on Internal Displacement in the Russian Federation (Moscow, 25-26 April 2002)

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Introduction

1. At the end of the year 2000, there were more than 491,000 persons internally displaced within the Russian Federation. Of these, an estimated 170,000 were displaced within the Republic of Chechnya, while 160,000 Chechens were residing in Ingushetia, 20,000 in Dagestan and 20,000 elsewhere in the North Caucasus region; in addition, there were an estimated 106,000 persons, mostly ethnic Russians, displaced during the conflict in Chechnya between 1994 and 1996, and some 15,000 persons who remained displaced in Ingushetia as a result of the 1992 conflict over the disputed Prigorodny region of North Ossetia.¹
2. It was against this backdrop that the International Conference on Internal Displacement in the Russian Federation was organized jointly by the Institute of State and Law of the Russian Academy of Sciences (RAS), the Moscow-based non-governmental organization (NGO) Partnership on Migration, and the Brookings Institution Project on Internal Displacement. The 70 participants included government experts and officials who deal with issues relating to forced migration, representatives of local NGOs and displaced communities, local academics and lawyers, representatives of regional and international organizations and of international NGOs working in the country, as well as international experts, including Francis M. Deng, the Representative of the United Nations Secretary-General on internally displaced persons.
3. The objective of the Conference was fourfold: to review the situation of internal displacement internationally, with particular reference to the region of the Commonwealth of Independent States (CIS) and the Russian Federation; to stimulate the further development of institutional and legal frameworks in the Russian Federation for addressing internal displacement and reinforce those in Government and civil society interested in strengthening local and national capacities; to discuss international standards on internal displacement, in particular the Guiding Principles on Internal Displacement, and their application; and to identify a programme of action for future activities.

I. OPENING ADDRESSES

4. The meeting was opened by Boris Torpornin, Director of the Institute of State and Law, RAS. After welcoming the participants, he observed that there was a need for growing international understanding of the problem of internal displacement and of the role of Government in addressing the problem. He also noted that the war against terrorism in which the Government was engaged could not diminish respect for standards of human rights.
5. Vladimir Kartashkin, Head of the Commission of Human Rights under the President of the Russian Federation, addressed the question of who the internally displaced were. Unlike other migrants, they were nationals of the State and thereby entitled to all the rights and liberties of nationals of the State. He emphasized in particular the right to adequate living standards, food and housing. While emphasizing that the main aid to displaced persons should be provided by the Government, the Government also had to look to the international community for help. In his view, the Guiding Principles on Internal Displacement had to be tailored to the conditions in specific countries. The Government was interested in providing fundamental human rights and

liberties to internally displaced persons in Chechnya. When military operations were over, all residents of Chechnya should be able to return. He also raised the issue of terrorism and the need to strengthen defences against terrorist acts.

6. A second official from the Office of the President, Serguei Boushmarinov, emphasized that the problem of internal displacement was acute in the Russian Federation and that the Government was working to address it. He expressed the hope that there would be greater cooperation on the part of the Government with international organizations and NGOs.

7. Valery Tishkov, Director of the Institute for Ethnology and Anthropology, RAS, focused on the “inter-ethnic collisions” that produced displacement and how understanding these better would allow for anticipating the problems associated with displacement. He pointed out that the authorities did not always respond to the needs of the displaced. In some cases, politics were involved; there was also “inertia and bureaucracy”, which combined to stop needed help to the displaced. It was important to consider how to eliminate bureaucratic constraints and empower the people concerned to carry out their own solutions.

8. He considered “a myth” the view that all internally displaced persons should be returned to their areas of origin. All Chechens in Moscow and other areas would not return to Chechnya. Nor would all Meshketian Turks return; perhaps only 1 per cent would go back. This “over-concentration on return” was not an effective policy. People “should not be returned”. However, those who chose to return should receive help to do so. Finally, he emphasized the importance of preventing internal displacement.

II. GLOBAL OVERVIEW OF INTERNAL DISPLACEMENT

9. Mr. Deng, provided an overview of internal displacement, emphasizing the truly global nature of the problem, which affects an estimated 20 to 25 million people in over 40 countries in all regions of the world. Between 3 and 4 million internally displaced persons could be found in Europe, of whom more than 400,000 were reported to live in the Russian Federation.

10. Despite its economic and political resources, internally displaced persons in Europe could be found living in cramped conditions in railway cars or in disused hotels and public buildings, often with more than one family to a room. Others were accommodated by friends, relatives or members of the same ethnic group. However, without the requisite support from the State, such hospitality could lead to the impoverishment of host families and communities which, in turn, fostered resentment against the displaced. Protection problems also abounded in areas of conflict, especially when different ethnic and national groups were pitted against one another.

11. The Representative described the history of his mandate and the main areas of his work, including the development of a normative framework for the internally displaced - the Guiding Principles on Internal Displacement, which were presented to the Commission on Human Rights in 1998. He expressed the hope that the Guiding Principles would serve as a valuable framework for policies and programmes undertaken in the Russian Federation. His country missions enabled him to dialogue with Governments and other actors on ways to improve the conditions of the displaced, and he hoped to receive a positive response from the Government of the Russian Federation with regard to undertaking a mission to North Caucasus region.

12. The Representative concluded by expressing the hope that strong partnerships would be developed at the Conference between the Government, international organizations, regional bodies and NGOs so that innovative and effective strategies could be put forward and acted upon to ensure a more effective and comprehensive response to the needs of Russia's displaced.

III. INTERNAL DISPLACEMENT IN THE RUSSIAN FEDERATION

13. The Conference reviewed some of the main trends in internal displacement in the CIS region, with particular emphasis on the Russian Federation. It also sought to clarify the issue of terminology, a particularly important issue in the Russian context given the absence of the term "internally displaced person" in Russian law and the use of the term "forced migrant" to apply to a relatively broad range of persons, including those who would be considered internally displaced persons as described in the Guiding Principles.ⁱⁱ

A. Russian law and the question of terminology

14. According to Vladimir Shkolnikov (Office for Democratic Institutions and Human Rights, Organization for Security and Cooperation in Europe), the origins of the term "forced migrant" could be traced back to the dissolution of the Soviet Union in 1991, at which time segments of Russian society, including the human rights community, felt that the Russian State was responsible for persons who once lived on the territory of the Russian Soviet Socialist Republic and who wanted to return to the Russian Federation from one of the former republics of the Soviet Union, as well as those Russian citizens who were displaced within the Russian Federation itself. Thus, the definition of "forced migrant" in the Law on Forced Migrants of 1993 provided that anyone, regardless of citizenship, who had been displaced within the Russian Federation could acquire the status of forced migrant. In addition, Russian citizens who were displaced within the borders of a former republic of the Soviet Union and foreigners, i.e. citizens of former Soviet republics, who entered Russia after being displaced and then acquired Russian citizenship could also become forced migrants.ⁱⁱⁱ

15. Over time the term had come to clash with internationally accepted notions of citizenship, international borders and refugee status. Indeed, the definition in the 1993 law included persons who by virtue of having been forced to cross an international border might be eligible for refugee status, while others could be described as "internally displaced persons" (*litsa, peremeshchyonnyye vnutri strany*). Mixing these two groups under the "forced migrant" label posed difficulties for the international community in providing appropriate responses. It was equally difficult to conclude inter-State agreements based on terms that were not generally accepted.

16. The definition of "forced migrant" was amended in July 2000, although it continued to apply to diverse categories and raised a question as to the status of those persons who were displaced within the borders of different "subjects" of the Russian Federation, i.e. republics, krais, oblasts, etc.^{iv} In short, there was no logical or conceptual boundary to the term. When it came to internally displaced persons, the term did not appear in Russian law with the result that such persons "got lost" among the other categories of forced migrant.

17. With a view to bringing clarity to the subsequent discussions, Mr. Shkolnikov drew a comparison between the term “internally displaced person” as contained in the Guiding Principles and the term “forced migrant”, in order to determine which internally displaced persons were recognized as forced migrants in Russian law and which were not.

18. Mr. Shkolnikov identified three categories of displaced person. First were those who would be considered internally displaced persons as defined by the Guiding Principles and as forced migrants by Russian legislation, i.e. persons who have been forced or obliged to flee or to leave their homes or places of habitual residence as a result of or in order to avoid the effects of armed conflict, situations of generalized violence or violations of human rights (Russian legislation stipulates a more restrictive list of causes) and who have left the territory of one subject of the Russian Federation and arrived on the territory of another.

19. Second were those who would be considered internally displaced as defined by the Guiding Principles but who would not be considered forced migrants according to Russian law, i.e. (a) persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence within the borders of the Russian Federation as a result of or in order to avoid the effects of natural or human-made disasters; and (b) persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence within one subject of the Russian Federation for such reasons and who have remained within the territory of that subject.

20. Third were those who would not be considered internally displaced according to the Guiding Principles but who would be defined as forced migrants according to Russian law, i.e. (a) a citizen of the Russian Federation who was forced to leave a place of residence in a foreign State (i.e. a State outside the former USSR) and who arrived in the Russian Federation; and (b) a citizen of the former USSR permanently residing in a republic that was part of the USSR who received refugee status in the Russian Federation and who lost this status due to acquisition of Russian citizenship in circumstances that prevented that person from becoming accommodated on the territory of the Russian Federation during the period when that person had refugee status.

21. Mr. Shkolnikov concluded that in general it would be beneficial to clarify and amend existing legislation, separating internally displaced persons from other categories of forced migrant, in accordance with the Guiding Principles. In the present circumstances, internally displaced persons got “left out of the current framework”.

22. During the discussion, several NGO participants agreed that the current definition did not adequately provide for the needs of internally displaced persons. The representative of the Office of the President said that there was need to study in more depth international terminology in order to decide how to adapt it to the Russian Federation.

B. The internally displaced in the CIS region

23. Bill Frelick (Director, US Committee for Refugees) provided an overview of internal displacement in the CIS region, with particular reference to the Russian Federation. For the most part, internal displacement in the region was linked to unresolved territorial disputes and ethnic ties to particular territories. In the majority of cases those displaced belonged to the dominant

ethnic group such as in Nagorny Karabakh in Azerbaijan where the majority of the internally displaced were ethnic Azeris; Abkhazia and South Ossetia in Georgia, where the majority of those displaced were ethnic Georgians; the Prigorodny region of Ingushetia, where the majority of those displaced were ethnic Ingush; and the displacement of ethnic Russians from Chechnya in the first Chechen conflict of 1994-1996. The second conflict in Chechnya Mr. Frelick characterized as “new displacement”. Since the majority of those displaced in the second, and ongoing, conflict were ethnic Chechens, “they also should qualify as internally displaced persons”.

24. Looking at the cases of “old displacement”, Mr. Frelick questioned whether, in terms of solutions, emphasis should be placed on voluntary, safe and dignified return to places of origin or on local integration. Displaced persons should have the right to voluntary, safe and dignified return, but when return under such conditions was not possible, there was a humanitarian and practical need for the displaced to integrate and start their lives anew. Moreover, there was a need to take into account the wishes of the displaced and promote the solutions that would be best for them.

25. As regards those newly displaced, he observed that displaced Chechens had not been given “forced migrant” status even though they would appear to fall within the scope of the Law on Forced Migrants. In effect, forced migrant status had been accorded only to non-ethnic Chechens (Russian speakers), most of whom fled Chechnya during the first phase of the conflict. A number of participants later noted that refusal to register the displaced was the starting point for many of their problems since it denied many of them access to humanitarian assistance and basic services.

26. Mr. Frelick further noted that there was pressure on people to return to Chechnya, but returns had been few and far between because of the security situation and the level of destruction of housing and the lack of economic opportunities within the Republic for returnees. Referring to principle 28 of the Guiding Principles, he reiterated the point that while national authorities had the primary duty and responsibility to establish conditions for the voluntary, safe and dignified return of internally displaced persons and that such conditions were the best guarantee for sustainable return, it was important also to recognize the needs and aspirations of the displaced which might not in all circumstances mean return but could include resettlement in another part of the country.

27. Alexandre Dzadziev (Centre for Social and Humanitarian Research, Vladikavkaz Institute of Development) and Maria Soultighova (President, “Gorianska”, and Assistant to the Deputy Chairman, Government of the Republic of Ingushetia) focused in detail on the situation of persons displaced from North Ossetia as a result of the conflict in the Prigorodny region and from Chechnya, respectively. Mr. Dzadziev underlined, *inter alia*, the extent of property destruction in the Prigorodny region and the fact that the shelter needs of returnees, at such time as return became possible, would be acute.

28. Ms. Soultighova, who herself was an internally displaced person, pointed out that tens of thousands of displaced Chechens were in tents in Ingushetia and that shelter was a key issue. She also spoke about the problems of returning to Chechnya, referring in this regard to threats to the personal security of the displaced upon return and reports of the military demanding cash

bribes at checkpoints. She also noted that the federal authorities were failing to live up to their promises regarding payment of compensation. She called for measures to guarantee personal security for return, more control of checkpoints, more job creation, and the timely issuance of identification documents.

29. During the discussion, participants highlighted a broad range of urgent problems facing the displaced from North Ossetia and Chechnya, such as: threats to and violations of their physical security; ethnic discrimination and persecution; lack of access to basic services; inadequate shelter; restrictions on freedom of movement; loss of educational opportunities for displaced children; problems in obtaining identity documents in their current places of residence; problems in the implementation of federal law concerning property restitution and compensation.

30. It was also noted that forced displacement and the situation of those affected must be looked at not just in Chechnya and Ingushetia but in Moscow and other places. Emphasis was placed on the needs of displaced children who did not receive timely medical assistance in Moscow and did not have the ability to go to school there. Part of the problem was the difficulties in registration, in the absence of which children were unable to obtain needed medical treatment. The problems of the disabled in accessing assistance was also raised, as was the need for psychosocial assistance, especially for children.

IV. GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

31. The first international standards developed for internally displaced persons were then presented and discussed with particular relevance to the Russian Federation. Walter Kälin (University of Bern), who chaired the legal team which assisted the Representative in developing the Guiding Principles, explained their content, noting that they cover all phases of displacement, providing for protection against arbitrary displacement and for protection and assistance during displacement and during the return or resettlement and reintegration phases.

32. Although the Guiding Principles were not a legally binding document like a treaty, as Roberta Cohen, Co-Director of the Brookings Institution Project on Internal Displacement explained, they had nonetheless acquired considerable international standing and acceptance since they were presented to the Commission on Human Rights in 1998. Indeed, since then the resolutions of the Commission, as well as those of the General Assembly, which initially had taken note of the Guiding Principles, had become increasingly supportive of their use worldwide.

33. Ms. Cohen emphasized in particular the role which NGOs have to play with regard to the Guiding Principles. NGOs in a variety of countries had been using the Guiding Principles to monitor, assess and advocate for the needs of the displaced; to promote and strengthen dialogue with their Governments on the rights of the displaced; and as the basis for outreach campaigns. Reference was made to a project for a review by lawyers from Armenia, Azerbaijan and Georgia, with support from OSCE and the Brookings Institution, of their national laws and regulations in terms of the Guiding Principles. They produced reports identifying areas in the law which needed reform. Meetings were then held in each of the countries at which the lawyers reviewed the findings with government officials, NGOs, civil society and international organizations. As a result, constructive discussion was now under way about improving laws in those countries and

removing obstacles to the implementation of existing law. It was observed that such a process could be replicated in the Russian Federation in partnership with the Brookings Project and other institutions.

34. A number of participants expressed support for this proposal, including the establishment of a group of academic experts to carry out a comparative study of federal and local legislation in the Russian Federation as it related to the internally displaced and the Guiding Principles. Although some noted that many of the provisions contained in the Guiding Principles were already reflected in the Law on Forced Migrants, others suggested that existing legislation could be further developed as regards the issue of property restitution and compensation for displaced persons and underscored the benefit of undertaking such an exercise since there might be additional areas which could benefit from review and, if necessary, reform. A working group could establish which aspects of the law might need refinement. Elena Loukacheva (Head of the Department of Human Rights, Institute of State of Law) suggested that the group be set up under the aegis of the Institute.

35. Some suggested that the Russian Government should adopt the Guiding Principles as law. Others advocated their use as the basis for a State migration policy, as there was no clear migration policy that covered internally displaced persons. Moreover, current policies, such as they existed, were being turned into “anti-migration policies”.

36. Russian NGOs, such as Memorial, reported that they were using the Guiding Principles as the basis for defining the rights of internally displaced persons. The importance of disseminating the Guiding Principles was stressed, as was the undertaking of programmes to educate national and local officials, in particular, about the Guiding Principles.

37. Finally, the importance of implementing the provisions of the Guiding Principles was emphasized, in particular at the local level where authorities were often unaware of the rights of the displaced and their duty and responsibility to ensure those rights. Indeed, local authorities often discriminated against internally displaced persons.

V. ACCESS TO BASIC RIGHTS

38. As stipulated in the Guiding Principles, internally displaced persons, as citizens of their country are entitled to a broad range of economic, social, cultural, civil and political rights. In particular, the displaced have the right to basic material assistance and physical and legal protection; they are entitled to freedom of movement and residence and the right to be protected against forcible return to or resettlement in any place where their life, safety, liberty, or health would be at risk; and are to be provided with all necessary documentation. In order to ensure that the displaced receive protection and assistance, the national authorities are supposed to grant rapid and unimpeded access to humanitarian organizations.

39. Henrik Villadsen (Danish Refugee Council, Moscow) noted that access to the displaced in the North Caucasus, and in particular those residing in Chechnya, was a serious problem. Free passage for humanitarian relief supplies and personnel had been denied on several occasions, including by federal forces and for reasons which were often not explained. The ongoing and highly volatile security situation further compounded access problems. Displaced persons in

Chechnya were reluctant to leave their current place of residence in order to seek assistance elsewhere in the Republic. Similarly, the representative of the World Food Programme (WFP), Bhim Udas, noted that the efforts of his organization to deliver assistance had been restricted both by security problems and by complicated bureaucratic procedures for obtaining travel permits as well as the role of the military in determining access for humanitarian supplies and personnel. Indeed, the lack of access by humanitarian organizations to the displaced and vice versa was essentially “a man-made problem.”

40. In view of the serious obstacles confronting humanitarian organizations in reaching those in need, a number of participants in the discussion emphasized the important role that local NGOs could play in complementing and facilitating the activities of international organizations.

41. Mikhail Aroutynov (President, International Human Rights Assembly) referred to continuing restrictions on the right to freedom of movement, pointing out that while the 1993 Law on Freedom of Movement provided for the right to choose one's residence, in practice some internally displaced persons experienced difficulty in exercising this right because of complicated and bureaucratic residence registration procedures. He highlighted in particular the problems of the Ingush, the Chechens and the Meshketian Turks.

42. Svetlana Gannushkina (“Memorial” Human Rights Centre) spoke about the legal framework for internally displaced persons in the Russian Federation, noting that the federal authorities were concerned primarily with questions of illegal immigration into Russia and that many “forced migrants” including refugees and some groups of internally displaced persons, as well as groups such as the Meshketian Turks, had not been granted formal forced migrant status. When deported by Stalin in 1944, Meshketian Turks were effectively internally displaced persons within the Soviet Union. With the change in State borders in the early 1990s, however, they were no longer categorized as such. However, there were those who had returned to the territory of the Russian Federation and who resided in places such as Krasnodar Krai and the Republic of Kabardino-Balkaria. Participants noted that while such persons were entitled to Russian citizenship, their rights were being denied by local authorities.

43. Attention was also drawn to the fact that for some internally displaced persons it was physically impossible to obtain documentation such as identity documents. Displaced Chechens residing outside of Chechnya, for example, were unable to obtain such documents as they were only issued on the territory of Chechnya. Those affected were, inter alia, unable to apply for and receive compensation for property lost as a result of conflict as they lacked the necessary documentation to register complaints with the authorities.

VI. RETURN, OR RESETTLEMENT AND REINTEGRATION

44. A durable solution was achieved when internally displaced persons were able to resume stable, secure lives by returning to their places of origin or resettling in another location in their country. Jean-Paul Cavalieri (Office of the United Nations High Commissioner for Refugees) explained that inherent in the right to voluntary return was the obligation of the authorities to establish the necessary conditions to facilitate this, as stipulated in principle 28. It was noted that the majority of internally displaced Chechens wanted to return to their homes but not at the present time, owing to the security situation within Chechnya and also to the level of destruction

of housing which raised questions as to the availability of suitable accommodation for returnees. Because of the inadequacy of conditions within Chechnya, the displaced should not be induced to return, or “forced to follow assistance”, or forced to go back to areas where there was no assistance and where conflict continued. He expressed concern that since March 2001, the authorities had stopped registering new internally displaced persons from Chechnya. These persons had not been allowed to enter camps for the displaced and, therefore, were unable to benefit from assistance. Yet “all persons who have lost their homes because of conflict should be considered forced migrants”.

45. Another crucial factor in the return or resettlement process was the availability of mechanisms for property restitution or, in lieu of restitution, payment of compensation or another form of just reparation, as stipulated in principle 29. Sergey Yagodin (Office of the Commissioner on Human Rights of the Russian Federation) noted that the Russian Constitution proclaimed that the rights of Russian citizens were protected by law, in accordance with which individuals should have access to the courts and to compensation in the event of inaction by the authorities in regard to acts of terrorism and extremism. However, it was also noted that the federal authorities were not doing enough to protect the victims of abuse. Inadequate attention was being paid to issues of restitution and compensation. Indeed, a system for implementing the relevant law still needed to be established, in particular a system for calculating the extent of property damage. Yet when efforts had been made to claim restitution, the legal system required that unrealistic details on the destruction of property be provided by the claimants. The return of property was rare and the Office on Human Rights took up restitution and compensation cases in the courts with a view to remedying this state of affairs. The point was also made that those responsible for human rights violations and crimes were not pursued or prosecuted.

46. Within the context of solutions, Steven Holtzman (World Bank) focused on the “poverty and vulnerability of displacement”. Noting that one generally speaks of three sustainable solutions for displaced populations - return to home of origin, permanent integration in the location to which they have been displaced and resettlement elsewhere - he observed that many displaced populations in Europe remained displaced for long periods without access to any of these solutions. In short, many displaced populations were caught in a trap, unable to return to their homes and usually unable to integrate into the community into which they had been displaced, which resulted in a special kind of poverty with its own characteristics.

47. Four factors contributed to the poverty and vulnerability of displaced populations: first, lack of economic assets or access thereto, such as access to agricultural land; second, obstacles to employment such as lack of educational and professional qualifications, which might be compounded by the inability to transfer appropriate skills from the area of origin to the area of settlement, legal and policy restrictions on employment, lack of investment capital, and lack of access to social networks and informal channels for finding employment through the State administration; third, distortions in social capital stemming from, for example, the physical separation of community members during displacement, changes in the roles of men and women and disruption of leadership patterns; finally, psychological factors such as those resulting from the lingering impact of violence and conflict-related trauma and from depression caused by displacement and uncertainty about the future. Mr. Holtzman observed that displacement created a wider circle of vulnerability, affecting the communities in which the displaced were “temporarily” settled as well as the communities of origin.

VII. RESPONSE OF NATIONAL AND LOCAL AUTHORITIES

48. As principle 3 affirms, the duty and responsibility for meeting the protection and assistance needs of the internally displaced rests, first and foremost, with the national and, through them, local authorities. The question was how to translate this duty into appropriate measures which sought to meet the needs of the displaced in an effective and comprehensive manner.

49. Mr. Torpornin noted that the present conference was occurring at a time when the State structures responsible for issues of migration (both internal and external) were undergoing change and that a new system was not yet in place, though it was clear that the Federal Migration Service, the State institution responsible for those issues, would be coming under the control of the Ministry of the Interior. Reference was made to the broader political and institutional context in which that change was taking place, specifically the reform of federal structures marked by a reallocation of responsibilities and a decentralization of powers to local authorities, which he regarded as a necessary step towards positive change. Within this process, expanding the powers of local authorities as regards migration policy was key, though such expansion of powers at the local level would need to be accompanied by a commensurate budget increase.

50. Vladimir Khartchenko (Deputy Head of the Regional Office on Nationalities and Migration, Rostov-on-Don) also referred to the current vacuum in which the Russian migration system was operating with the disbanding of the old system without the establishment of a functioning successor. As the new system developed, due regard should be paid to the regional and local level and the problems they would face in dealing with migration issues. While Rostov-on-Don had traditionally been an ethnically mixed area, population movements stemming from the conflict in Chechnya had been perceived negatively and the attitude of local populations towards the displaced was one of hostility bordering on aggression, extending also to a perception of the displaced as competitors, rather than contributors to the labour market. Among the problems facing the displaced and requiring urgent attention were the need for housing and employment. Mr. Khartchenko noted that NGOs and civil society could play an important role in working with the local authorities to resolve those problems and that consultations had begun between the authorities and local NGOs with regard to a scheme in which the displaced themselves would provide the labour for the construction of homes.

51. Several participants underscored the importance of effective working relations between the federal and local levels. Reference was made to the lack of experience on the part of the local authorities in addressing migration issues and resolving situations of displacement and the need for training and education on such issues. One of the consequences of the poor relationship between local officials and forced migrants was that the displaced felt discouraged from applying to the authorities for the services they needed, believing that they had to rely on bribery and corruption to gain access to those services.

52. Participants also underscored the need to educate local or receiving populations and communities to overcome what one participant referred to as the “threshold of ethnic rejection”, or the drop in tolerance of ethnic groups other than one’s own. Some noted that the mass media and senior local officials and policy makers, while having a responsibility to work to eradicate such intolerance, were in fact fuelling it to varying degrees through, for example, voicing demands for the expulsion of displaced Chechens, which was “very serious and alarming”.

53. The importance of overcoming such intolerance was particularly important since, as several participants noted, return of the displaced to their original homes was not yet a viable option and consideration must be given to alternatives such as resettlement and local integration.

54. Some participants also drew attention to serious discrepancies between different regions of the country in implementing international standards. In some regions, such as Krasnodar, contrary to the Guiding Principles, internally displaced persons were not provided with documentation such as birth certificates and were not allowed to settle in their current area of residence by purchasing real estate. Participants stressed the need for greater coherence and transparency in implementing federal law and also international norms in the different regions. Given the emphasis on decentralization, several participants said it was incumbent upon the Federal Government to take steps to ensure that its own laws as well as international norms were implemented at the local level.

VIII. ROLE OF NGOs AND CIVIL SOCIETY

55. As Natalia Voronina (Partnership on Migration) observed, NGOs had come to play an increasingly prominent and important role in the Russian Federation in recent years, as exemplified by the multitude of such organizations providing protection and assistance to the displaced in the North Caucasus. To facilitate the work of Russian NGOs, Voronina endorsed the suggestion of one of the participants that a process be established similar to the one undertaken at the 1996 Regional Conference to Address the Problem of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Commonwealth of Independent States and Relevant Neighbouring States, organized under the auspices of UNHCR, the International Organization for Migration (IOM) and OSCE/ODIHR, and which had brought together a range of interested Governments, NGOs and international and regional organizations in an effort to address the needs of those uprooted in the region of the former Soviet Union. A scaled-down version of the process was proposed which would bring together the key actors from the Government, NGOs and the international community in order to discuss the problem of internal displacement in the Russian Federation and develop a comprehensive and coordinated response. It was suggested that an organization such as UNHCR might consider lending support to such an initiative.

56. Samuel Hautenstein (Médecins sans frontières, Netherlands) referred to the efforts of MSF in supporting local health structures in Chechnya that were faced with enormous capacity problems. Its main counterpart was the Ministry of Health which, he noted, attempted to facilitate the organization's work but was itself constrained by limited resources. He also noted problems of access to those in need resulting both from security lapses and administrative constraints.

57. Recalling the remarks made earlier by Ms. Voronina, Ms. Gannushkina noted that NGOs and civil society in the Russian Federation had gained strength during the 1990s and had learned how to dialogue with and seek to influence the authorities. However, in recent years, a change in attitude was discernible on the part of the authorities, reflected in a reluctance to cooperate with NGOs. That in turn had translated into a number of practical difficulties for NGOs, such as the inability to register organizations, which had implications for their legal personality and their ability to open bank accounts in the organization's name, and using the tax code in such a way as

to increase their costs substantially. Ms. Gannushkina called upon the international community to assist NGOs in their efforts to operate effectively in Russia.

58. Many participants noted the positive role that NGOs and civil society could play in protecting and assisting the displaced and their important role as partners of international humanitarian organizations and in reaching populations the latter were often unable to access. Reference was also made to the essential role NGOs could play in exerting pressure on the Government and in helping to combat or reverse the xenophobic trends that seemed to dominate the migration debate in Russia.

59. The point was further made that NGOs could achieve more in terms of advocacy and protection by working together and cooperating and sharing information. In that connection, one participant suggested that an NGO coordination centre be established with a view to strengthening the efforts of NGOs in monitoring conditions of displacement, mobilizing public opinion and generating international support.

IX. ROLE OF REGIONAL AND INTERNATIONAL ORGANIZATIONS

60. In recent years a broad range of humanitarian, human rights and development organizations have begun to provide protection, assistance, and reintegration and development support to internally displaced populations; in addition, regional organizations have become active in promoting political solutions to internal conflicts and in drawing attention to the problem of internal displacement. Alexandre Guessel (Office of the Council of Europe High Commissioner for Human Rights) noted that a significant proportion of the High Commissioner's work concerned the situation in the North Caucasus. In 2001, for example, the High Commissioner called for steps to prevent impunity for military personnel who had committed abuses against the civilian population and urged that the debate on the future of the Chechen Republic include the Chechen people themselves.

61. Mr. Guessel took note of the usefulness for the North Caucasus of the Guiding Principles, in particular calling attention to principle 28 and the importance of the authorities' ensuring that any return of displaced persons was voluntary and took place in conditions of safety and dignity. Due regard, he emphasized, should also be paid to the relevance of the European Convention on Human Rights (a number of whose provisions were reflected in the Guiding Principles), to which the Russian Federation was a State party and whose provisions applied in the territory of the country.

62. It was also noted that the Committee on Migration, Refugees and Demography of the Parliamentary Assembly of the Council of Europe was active on the question of Chechnya. The Committee had appointed a rapporteur to undertake a study on the situation of internal displacement in Europe and had drafted a motion for a recommendation calling upon States to promote and apply the Guiding Principles and to incorporate them into their national law where this had not already been done.

63. Jorma Inki (Head, OSCE Assistance Group to Chechnya) noted that at the present time, OSCE was the only international organization "formally present" within Chechnya. Its presence provided it with a useful role in terms of monitoring the rights and conditions of the displaced

and the civilian population and in advocating with the federal and local authorities. A plea was made to other international organizations to work more closely with OSCE and take advantage of its physical presence in Chechnya.

64. Toby Lanzer (Head of Office, OCHA, Moscow) spoke about the role of OCHA in facilitating coordination and liaising with the federal authorities to ensure that humanitarian action could take place when the Government consented to such action. The United Nations humanitarian operation in the North Caucasus had four strategic aims: to protect the basic rights of the civilian population in Chechnya and Ingushetia; to preserve the well-being of children and youth; to help local NGOs and civil society to gain confidence, skills and the capacity needed to contribute to the development of society; and to prepare legal, health, education and other structures in Chechnya. To support these efforts the United Nations had mobilized over US\$ 90 million since November 1999.

65. Bernard Lhoest (International Committee of the Red Cross, Ingushetia) underlined one of the crucial issues facing humanitarian workers in the North Caucasus and indeed throughout the world - the safety of humanitarian personnel. He observed that humanitarian work in the region was taking place in the face of numerous dangers, posed by landmines, unexploded ordnance, shooting, bombing and physical and verbal abuse, as well as a climate of criminality. In an effort to reduce these risks, ICRC had developed a "seven pillar" concept of staff security, an important element of which was reliable information. In that regard, it was noted that information sharing among the various humanitarian actors in the region could be improved. Finally, reference was made to the fact that the murderers of the six ICRC staff in Chechnya in December 1996 were still at large.

X. PROGRAMME OF ACTION FOR FUTURE ACTIVITIES

66. A number of proposals for future action emerged during the Conference which aimed to respond to the challenge of internal displacement in the Russian Federation. The various proposals may be grouped in terms of national, regional and international responses.

A. At the national level

67. Since the primary responsibility for meeting the protection and assistance needs of the internally displaced rests with the Government of the Russian Federation, its role needs to be made far more effective. Above all, there is an urgent need for the development of a coherent migration policy which should, inter alia:

(a) Give emphasis to fundamental human rights standards, as contained for instance in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and the European Convention on Human Rights, that balance respect for individual rights with protection of ethnic and national groups from discrimination;

(b) Address the question of whether dealing with forced migrants in a uniform manner, as is currently the case under the law on forced migrants, is the most effective way of dealing with the problem or whether internally displaced persons would be better protected if there were

special legislation which distinguished them from other groups of forced migrants, and in particular separated them from those comparable to refugees;

(c) Ensure that the many problems confronting internally displaced persons are resolved, in particular by improving their access to basic services, namely adequate food, medicine and shelter; helping to alleviate the poverty they experience; and protecting them from discrimination and threats to their personal security. In this regard, all internally displaced persons should be granted forced migrant status so as to facilitate their access to basic services;

(d) Provide solutions to problems of internal displacement, including the safe, voluntary and dignified return of the displaced to their places of origin. Moreover, in view of the fact that inherent in voluntary return is the notion of choice, solutions must extend to taking into account the wishes of the displaced; that would include the options of integration in the place in which they currently reside or resettlement elsewhere in the Russian Federation, in accordance with human rights standards concerning freedom of movement and choice of residence and the right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

68. The Government should:

(a) Provide measures aimed at improving relationships between ethnic and national groups in areas of integration. This would include education and training of both host communities and of internally displaced persons so as to improve the receptivity of host communities and the more effective integration of the internally displaced. Training and education of national and local authorities, as well as lawyers and the judiciary in the rights of internally displaced persons and in the principle of non-discrimination, must also be undertaken. NGOs should be provided with the resources to play a strong role in organizing the necessary training seminars and workshops and the Guiding Principles on Internal Displacement could serve as a framework for such programmes;

(b) Regulate the relationship between local and national authorities so that uniform standards govern the policies and programmes of both and ensure that policies and practices of the authorities at all levels are in conformity with international human rights standards. An end to discriminatory practices against displaced persons in Krasnodar would be one example. The promotion of humane solutions for deported peoples such as the Meshketian Turks would be another;

(c) Provide a strong oversight role, in particular with regard to addressing violations of the human rights of internally displaced persons, to the Office of the Representative of the President of the Russian Federation for Human Rights in the Republic of Chechnya and provide this office with the requisite resources to carry out its functions effectively;

(d) Facilitate government cooperation with regional and international organizations in order that these organizations can better complement and support the efforts of national and local authorities to provide assistance, protection and reintegration support for the internally displaced. Strengthened cooperation between the Government and international and regional organizations

must include unimpeded access for these organizations to areas of displacement as well as an expanded presence, when needed;

(e) Guarantee that international humanitarian principles providing for the protection and safety of humanitarian workers are respected and upheld and ensure that those responsible for the abduction and murder of local and international humanitarian staff are identified and successfully prosecuted.

69. The development of the policy itself should involve the active participation of NGOs, civil society and academic experts, in particular in conducting research, monitoring situations, deciding on the components of the policy and mobilizing broad public support for the contents of the policy. To this end, a series of round tables should be held to bring together government officials, civil society and international organizations in different regions of the country. In this connection, restrictions on the ability of NGOs to function effectively and to gain access to areas of internal displacement should be lifted. The media should play a role in highlighting and supporting these efforts.

70. Beyond the development of a national migration policy:

(a) The Guiding Principles should be seen and utilized as a useful tool for reviewing existing and future national and local legislation and administrative regulations with a view to ensuring that the provisions of these laws and regulations are in accordance with international standards. In this connection, it was proposed to establish a working group of experts to carry out a comparative study of federal and local legislation in terms of the Guiding Principles;

(b) NGOs could establish a coordination centre to strengthen their own role in monitoring conditions of displacement, mobilizing public opinion and generating international support. In examining the laws and regulations that govern NGO activities, NGOs must seek to ensure that they have sufficient guarantees and space for their organizations to operate.

B. At the regional level

71. The Government should:

(a) Actively support the efforts and the access of OSCE and the Council of Europe, both of which play important roles with regard to internal displacement in the Russian Federation;

(b) Support, as a participating member of these organizations, the greater integration of the issue of internal displacement into their activities and the use of the Guiding Principles as the framework for their policies and programmes for the displaced.

C. At the international level

72. The Government should:

(a) Facilitate the access and support the efforts of international humanitarian organizations to respond to the assistance, protection and reintegration and development needs of the internally displaced;

(b) Support in particular the role of OCHA in facilitating the coordination of the international response, as well as the various international organizations and NGOs that carry out vitally needed programmes;

(c) Take the necessary steps to facilitate a visit to the North Caucasus by the Representative of the Secretary-General on internally displaced persons to allow him to observe the displacement situation first-hand and enter into solutions-oriented dialogue with the authorities and other pertinent actors;

(d) Convene a process similar to the 1996 CIS process, this time exclusively focused on the Russian Federation and on the problem of internal displacement, bringing together the Government, NGOs and the international community to develop solutions.

Notes

ⁱ US Committee for Refugees, “Russian Federation”, *World Refugee Survey* (2001).

ⁱⁱ According to which “internally displaced persons are persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result 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”.

ⁱⁱⁱ According to article 1 of the Law on Forced Migrants of 1993, a “forced migrant” is “a citizen of the Russian Federation who was forced or has intention to leave the place of his/her permanent residence on the territory of another State or on the territory of the Russian Federation due to violence or persecution committed against him/her or members of his/her family or due to [a] real danger [of being] subjected to persecution due to race or ethnic [group], religious belief, language, or due to belonging to a certain social group or political opinion in connection [with the] conduct of hostile campaigns against a certain person or groups of persons, mass public disturbances and other circumstances significantly infringing on human rights”. Article 1 continues, stating that “[a] person without Russian Federation citizenship can also be recognized as a forced migrant if he/she left the place of his/her permanent residence on the territory of the Russian Federation due to circumstances stipulated in the first part of this article”. Furthermore, “[a] citizen of the former USSR who lived on the territory of a republic that was a part of the USSR who arrived in the Russian Federation due to circumstances stipulated in the first part of

this article and who acquired the citizenship of the Russian Federation while on the territory of the Russian Federation can also be recognized as a forced migrant” (unofficial translation).

^{iv} The amended definition is given in article 1 of the Law and reads as follows:

“1.1 A forced migrant is a citizen of the Russian Federation who was forced to leave the place of his/her permanent residence due to violence or persecution committed against him/her or members of his/her family or due to [a] real danger [of being] subjected to persecution due to race or ethnic [group], religious belief, language, or due to belonging to a certain social group or political opinion in connection [with the] conduct of hostile campaigns against a certain person or groups of persons [or] mass public disturbances.

“1.2 The following could be recognized as forced migrants due to circumstances stipulated in paragraph 1 of this article:

“(1) A citizen of the Russian Federation who was forced to leave a place of residence on the territory of a foreign State and who arrived in the territory of the Russian Federation;

“(2) A citizen of the Russian Federation who was forced to leave a place of residence on the territory of one subject of the Russian Federation and arrived in the territory of another subject of the Russian Federation;

“(3) A citizen of a foreign State or a stateless person legally residing on the territory of the Russian Federation can also be recognized as a forced migrant if he/she left the place of his/her permanent residence within the territory of the Russian Federation due to circumstances stipulated in paragraph 1 of this article;

“(4) A citizen of the former USSR permanently residing on the territory of a republic that was a part of the USSR who received refugee status in the Russian Federation and who lost this status due to acquisition of citizenship of the Russian Federation in case of circumstances that prevented this person from becoming accommodated on the territory of the Russian Federation during the period when this person had refugee status.”
