

DISPLACED PERSONS

INTRODUCTION

This chapter provides an overview of the mechanisms by which states facilitate the return of displaced persons. This chapter also outlines the related provisions of the Darfur Peace Agreement (DPA) and provides sample language regarding displaced persons that parties may wish to consider in drafting a peace agreement. This chapter refers to both internally displaced persons (IDPs) and refugees together as “displaced persons.”

States recovering from periods of armed conflict often face the challenge of providing for the return of refugees and IDPs. States must address several issues to facilitate the return of displaced persons, including providing security for the displaced persons, interim housing for those seeking to return to their pre-conflict homes, and social services for those who do return to their pre-conflict homes. To ease the process of resettlement and reintegration of displaced persons, the parties may wish to include a framework for addressing the issue of displaced persons in a peace agreement. Peace agreements including these provisions can ease the process of resettling displaced persons and can ensure that all parties respect the human rights of returning displaced persons.

The provisions related to displaced persons typically include four core elements. These core elements: (1) provide a definition of refugees and internally displaced persons; (2) provide guarantees by all parties regarding the return and reintegration of displaced persons; (3) define the rights of displaced persons; and (4) create implementation and enforcement mechanisms to facilitate their return and reintegration.

CORE ELEMENTS

Definitions of Refugees and Internally Displaced Persons

Peace agreements often define specific refugees and internally displaced persons to whom the agreement applies. This clarifies the legal protections and obligations that are due to such persons.

The parties may provide technical definitions of the terms “refugees” and “internally displaced persons” within the peace agreement itself. In Uganda, the National Policy for Internally Displaced Persons includes a “Glossary of Terms”

section that defines internally displaced persons as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-induced disasters, and who have not crossed an internationally recognized State border.”¹ The National Policy for Internally Displaced Persons includes a separate term for returning displaced persons. It defines a returnee as “any Internally Displaced Person who returns to his or her home or place of habitual residence.”² In Georgia, the Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons refers collectively to refugees and internally displaced persons and describes them as “people who have fled from areas of the conflict zone to the areas of their previous permanent residence.”³

A peace agreement may also define refugees and IDPs by referencing definitions contained in international treaties. The Arusha Peace and Reconciliation Agreement for Burundi adopts the definition of refugees used in the United Nations Convention Relating to the Status of Refugees, the United Nations Protocol Relating to the Status of Refugees, and the Organization of African Unity Convention Governing the Specific Aspects of Refugee Rights in Africa.⁴

A peace agreement may use one term to discuss both refugees and IDPs, or it may reference them separately. The Arusha Peace and Reconciliation Agreement for Burundi refers to all IDPs and returnees as “Sinistrés.”⁵ The Agreement on Resettlement of the Population Groups Uprooted by the Armed

¹ The National Policy for Internally Displaced Persons, Glossary of Terms, August 2004 (Uganda), *available at* http://www3.brookings.edu/fp/projects/idp/Uganda_IDPpolicy.pdf (last accessed Sept. 7, 2007).

² The National Policy for Internally Displaced Persons, Glossary of Terms.

³ Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons, sec. 1, Sept. 4, 1994 (Georgia), *available at* http://www.usip.org/library/pa/georgia/georgia_quad_19940504.html (last accessed Sept. 20, 2007).

⁴ Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV, ch. 1, art. 1, Aug. 28, 2000, *available at* http://www.usip.org/library/pa/burundi/pa_burundi_08282000_toc.html (last accessed Sept. 8, 2007).

⁵ Arusha Peace and Reconciliation Agreement for Burundi, Aug. 28, 2000, Protocol IV, ch. 1, art. 1.

Conflict in Guatemala refers to all displaced persons and returnees as the “uprooted population.”⁶

Guarantees of Security and International Cooperation

Before returning home, displaced persons require assurances from their home states that their place of return is safe. A sustainable peace is necessary to create an environment that will allow displaced persons to return, resettle, and resume their lives. By committing to end the violent conflict in a peace agreement, the parties may reassure the returnees that they will be safe and secure during the resettlement process. If the international community is assisting the return process, the parties also can cooperate fully by ensuring that resources and access to all territories within their control are available to those assisting.

Guarantees for Safety and Security

A lack of security and safety can prevent the return of displaced persons to their areas of origin. Displaced persons may be in danger both during the process of return and after resettlement. A peace agreement can address these concerns by establishing each party’s affirmative obligation to ensure the safety and security of affected populations during times of return and reintegration.

Disarmament, demobilization, and reintegration of armed groups involved in the conflict can significantly increase the safety and security of returnees.⁷ Peace agreements in El Salvador and Guatemala provided for disarmament programs to protect civilians following the conflicts that caused their displacement. Both disarmament programs featured multiple weapons collection sites and limited access to weapons storage warehouses.⁸ In both states, the programs initially

⁶ Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, sec. I, Definitions, para. 1, June 17, 1994 (Guatemala), *available at* http://www.brookings.edu/fp/projects/idp/Guatemala_ResettlementAgreement.pdf (last accessed Sept. 7, 2007).

⁷ Disarmament refers to a gradual reduction in the number of available weapons. Demobilizing combatants in the region removes them from potential points of conflict. Reintegration provides ex-combatants with the skills and education necessary to make them viable members of a post-conflict society.

⁹ Chapultepec Peace Agreement, ch. VII, paras. 27-28, Jan. 16, 1992, (El Salvador) *available at* http://www.usip.org/library/pa/el_salvador/pa_es_01161992_toc.html (last accessed Sept. 8, 2007); Agreement on the Definitive Ceasefire, paras. 24-26, Dec. 4, 1996 (Guatemala), *available at* http://www.usip.org/library/pa/guatemala/guat_961204.html (last accessed Sept. 8, 2007);

restricted the movements of government forces, and non-government combatants relocated to specified disarmament zones.⁹ Successful reintegration efforts in Sierra Leone provided more than 21,000 ex-combatants with a six-month skills training program, basic education, and a stipend that was available as long as the ex-combatants remained in training.¹⁰ Such provisions help to keep former combatants apart from returnees and avoid further endangerment to the returnees.

Cooperation with the International Community

Parties to a peace agreement can facilitate the return and resettlement of displaced persons by explicitly invoking international laws governing refugees and IDPs in a peace agreement. The parties can also cooperate with the international community by ensuring the security of international organizations that provide repatriation assistance, including aid and trans-border transportation to return displaced persons.

In Sierra Leone, the government and the rebel group, the Revolutionary United Front, agreed to allow the United Nations and other international organizations to have access to the state so that they could provide humanitarian assistance to populations in need.¹¹ In the peace agreement, the parties specified that they would allow the humanitarian groups safe and unhindered access to areas under the parties' control. The peace agreement also specified that the parties would provide for the safety of the goods, personnel, and beneficiaries of the

Laina Reynolds, *UN & Conflict Monitor: Public Security and Post Settlement Peace-Building*, available at http://www.brad.ac.uk/acad/confres/monitor/mntr3_comment.html (last accessed Sept. 8, 2007).

⁹ Chapultepec Peace Agreement, ch. VII, paras. 9-25; Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca, sec. 3(a)(i), Dec. 12, 1996, available at http://www.usip.org/library/pa/guatemala/guat_961212.html (last accessed Sept. 8, 2007).

⁸ Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, art. XVI, July 7, 1999, available at http://www.usip.org/library/pa/sl/sierra_leone_07071999_toc.html (last accessed Sept. 20, 2007); UN PRESS KIT, UNAMSIL: THE STORY BEHIND THE SUCCESS IN SIERRA LEONE (2003), available at <http://www.un.org/events/peacekeepers/2003/docs/sierraleone.htm> (last accessed Sept. 8, 2007).

¹¹ Statement by the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone on the Delivery of Humanitarian Assistance in Sierra Leone, June 3, 1999. The parties reaffirmed this statement and included it as Annex 4 to the Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone.

humanitarian assistance.¹² The Secretary-General of the United Nations noted that the Sierra Leone government itself may not have been able to handle a large influx of returning displaced persons, so the provision of humanitarian assistance by international organizations was essential to sustain the return of displaced persons.¹³

Similarly, in Liberia the government agreed to allow the United Nations and other humanitarian organizations to monitor its displaced persons camps. The declaration by the Liberian government provided that the United Nations and other humanitarian organizations would work with the Liberian Ministry of Justice “in monitoring, protecting and managing the treatment of IDPs in accordance with International Humanitarian and Human Rights laws and standards.”¹⁴

Rights of Displaced Persons

There are four essential rights of displaced persons. First, displaced persons have the right to make an informed, voluntary return, which requires that states neither hinder nor force displaced persons’ return. States can encourage displaced persons to return voluntarily by providing them with information about the conditions in the areas of their pre-conflict homes. Second, displaced persons have the right to citizenship, identity, and participation, which includes the right to have all identification documentation necessary to enjoy their citizenship rights. Third, displaced persons have the right to property, including the return or compensation for their lost property. Fourth, displaced persons have general human rights, as enumerated in international human rights conventions and treaties.

The Right to Informed, Voluntary Return

¹² Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone art. XXVII.

¹³ The Secretary-General, *Report of the Secretary-General on the issue of refugees and internally displaced persons pursuant to resolution 1346* (2001), paras. 16, 19, UN Doc. S/2001/513 (May 23, 2001).

¹⁴ Declaration of the Rights and Protection of Liberian Internally Displaced Persons, sec. 2, Sept. 26, 2002, *available at* http://www3.brookings.edu/fp/projects/idp/Liberia_IDP_Rights_Declaration.pdf (last accessed Sept. 7, 2007). The Office of the United Nations High Commissioner for Refugees completed its repatriation program in Liberia on June 30, 2007 and successfully returned and resettled 110,000 refugees. The Secretary-General, *Fifteenth Progress Report of the Secretary-General on the United Nations Mission in Liberia*, para. 58, U.N. Doc. S/2007/479 (Aug. 8, 2007).

Agreements that protect displaced persons recognize the right to informed, voluntary return.¹⁵ States have an international legal obligation to respect, allow, and ensure the right to return.¹⁶ Forced repatriation is illegal as long as the conditions from which the refugee fled still exist.¹⁷

Parties may agree to cooperate with international humanitarian agencies to facilitate “go-and-see visits,” which allow displaced persons to assess the security situations in their former communities and make informed, voluntary decisions to return.¹⁸ The United Nations Mission in Kosovo arranged for displaced persons to make “go-and-see” visits to help them make an informed decision to return.¹⁹ The United Nations Mission in Kosovo’s detailed guidelines for implementing these “go-and-see” visits emphasized the need for enhanced security for the displaced persons making these visits.²⁰ The United Nations Mission in Kosovo provided transportation for displaced persons to visit their pre-conflict homes and reestablish contacts with neighbors and the community.²¹ The guidelines also mandated that local authorities conduct briefings when the displaced persons arrive to their pre-conflict homes to inform them of the opportunities to receive social welfare, education, health care, and other services available.²²

¹⁵ Guiding Principles on Internal Displacement, Principle 17, UN Doc. E/CN.4/1998/53/Add.2 (Feb. 11, 1998), *available at* <http://www.unhcr.ch/html/menu2/7/b/principles.htm> (last accessed Sept. 7, 2007).

¹⁶ OAU Resolution on Voluntary Repatriation of African Refugees, OAU Doc. CM/Res. 399 (Feb. 1975), *available at* http://www.africa-union.org/root/AU/Documents/Decisions/com/5CoM_1975a.pdf (last accessed Sept. 8, 2007).

¹⁷ Convention Relating to the Status of Refugees, art. 33, July 28, 1951, 189 U.N.T.S. 150, *available at* <http://www.ohchr.org/english/law/refugees.htm> (last accessed Sept. 8, 2007); Guiding Principles on Internal Displacement, Principle 15, UN Doc. E/CN.4/1998/53/Add.2 (Feb. 11, 1998).

¹⁸ INTERNAL DISPLACEMENT MONITORING CENTRE, MODALITIES OF THE IDP RETURN PROCESS (2006), *available at* [http://www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/85DC841EAC4060F9C1257314004B5923?OpenDocument](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/85DC841EAC4060F9C1257314004B5923?OpenDocument) (last accessed Sept. 8, 2007). For further discussion, see UNITED NATIONS MISSION IN KOSOVO, REVISED MANUAL FOR SUSTAINABLE RETURN, at 31-34, *available at* http://www.unmikonline.org/srsg/orc/documents/Manual_ENG.pdf (last accessed Sept. 7, 2007).

¹⁹ UNITED NATIONS MISSION IN KOSOVO, REVISED MANUAL FOR SUSTAINABLE RETURN, at 31-34.

²⁰ UNITED NATIONS MISSION IN KOSOVO, REVISED MANUAL FOR SUSTAINABLE RETURN, at 33.

²¹ UNITED NATIONS MISSION IN KOSOVO, REVISED MANUAL FOR SUSTAINABLE RETURN, at 33.

²² UNITED NATIONS MISSION IN KOSOVO, REVISED MANUAL FOR SUSTAINABLE RETURN, at 33-34. Although providing this information is important in encouraging displaced persons to return

In Sierra Leone, the peace agreement between the Sierra Leone government and the Revolutionary United Front of Sierra Leone encouraged the return of displaced persons. The peace agreement recognized the right of voluntary return of displaced persons and provided that the parties would agree to a resettlement plan.²³ The resettlement plan included provisions for displaced persons who sought to return to insecure areas as well as secure areas.²⁴ The Sierra Leonean government allowed displaced persons who could not return to an area because it was not secure to stay in camps, where the government provided all basic services.²⁵ The government provided refugees returning to secure areas with access to transportation to those areas, food rations for resettlement, and start-up assistance through welfare programs. These provisions helped displaced persons reintegrate in their pre-conflict homes.²⁶

The Right to Citizenship, Identity, and Participation

The United Nations Convention Relating to the Status of Refugees provides that governments and their officials cannot discriminate against displaced persons because of their status as refugees or IDPs.²⁷ One method states may use to fully restore displaced persons' citizenship rights is to provide government-issued identification and other documentation.²⁸

The National Policy for Internally Displaced Persons in Uganda, provides that state and local governments cannot discriminate against displaced persons and

home, the United Nations noted that progress in Kosovo had been slow because of a lack of economic opportunities and a lack of certainty regarding the future status of Kosovo. The Secretary-General, *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo*, para. 16, U.N. Doc. S/2007/134 (March. 9, 2007).

²³ Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, art. XXII.

²⁴ Sierra Leone Resettlement Strategy (2001), sec. 3.1.3, *available at* http://www3.brookings.edu/fp/projects/idp/SierraLeone_ResettlementStrategy2001.pdf (last accessed Sept. 7, 2007).

²⁵ Sierra Leone Resettlement Strategy (2001), sec. 3.4.1.

²⁶ Sierra Leone Resettlement Strategy (2001), sec. 3.5.

²⁷ Convention Relating to the Status of Refugees, ch. IV, July 28, 1951, 189 U.N.T.S. 150; Guiding Principles on Internal Displacement, Principle 1, UN Doc. E/CN.4/1998/53/Add.2 (Feb. 11, 1998).

²⁸ Guiding Principles on Internal Displacement, Principle 20, UN Doc. E/CN.4/1998/53/Add.2 (Feb. 11, 1998).

that local governments must provide displaced persons with all documentation necessary to allow them the full enjoyment of their rights.²⁹ Similarly, in Guatemala, the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict provides that displaced persons shall not face discrimination and recognizes the special need of displaced persons for identity documentation.³⁰ As such, the Guatemalan agreement provides several methods for the government to provide the required documentation, including free registration of displaced persons and consideration of registration records kept by groups of displaced persons in establishing their identities.³¹ To avoid fraud in establishing a displaced person's identity, states may consider requiring corroboration of a displaced person's identity with other documents or witnesses.³²

The Right to Property and Home

State practice illustrates that displaced persons have a right to regain their property or receive compensation for that property upon their return. The Universal Declaration of Human Rights guarantees the right to property and home.³³ Property concerns are a significant obstacle to the return of displaced persons. Secondary occupants often have destroyed, stolen, or occupied the property of displaced persons. For this reason, states find it necessary to develop mechanisms to resolve property disputes, reassign land, and compensate displaced persons for their losses.

To address property rights and restitution, peace agreements usually provide for the right to property restitution. The General Peace Agreement for

²⁹ The National Policy for Internally Displaced Persons, ch. 3.5.

³⁰ Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, sec. I, Principles, para. 6 and ch. 2, para. 7.

³¹ Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, sec. II, para. 7.

³² The United Nations Internally Displaced Persons Interagency Working Group suggested that the governments of Serbia and Montenegro allow displaced persons from Kosovo to establish their identities by the sworn testimony of two witnesses. IDP INTERAGENCY WORKING GROUP, ANALYSIS OF THE SITUATION OF INTERNALLY DISPLACED PERSONS FROM KOSOVO IN SERBIA AND MONTENEGRO: LAW AND PRACTICE, *available at* <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain/opendocpdf.pdf?docid=42120e554> (last accessed Sept. 11, 2007) (suggesting that the governments of Serbia and Montenegro allow displaced persons from Kosovo to establish their identities by the sworn testimony of two witnesses).

³³ Universal Declaration of Human Rights, art. 17, Dec. 10, 1948, GA Res. 217A(III), UN Doc. A/810 at 71, *available at* <http://www.unhchr.ch/udhr/index.htm> (last accessed Sept. 8, 2007).

Mozambique provides displaced persons with a right to take legal action to secure restitution or compensation for their property.³⁴ Similarly, in the General Framework Agreement for Peace in Bosnia and Herzegovina, the parties agreed that displaced persons had the right to restoration or compensation for lost property.³⁵

Once the parties have established the right to property restitution, states can pass legislation or include provisions in a peace agreement creating mechanisms to adjudicate property restitution claims.³⁶ The General Framework Agreement for Peace in Bosnia and Herzegovina included provisions establishing a Commission to resolve property restitution claims.³⁷ For more information on Property Restitution, see the chapter on Property Restitution.

*Respect for Human Rights*³⁸

Peace agreements generally define the human rights of all citizens or incorporate the protections guaranteed by international human rights treaties by reference. Parties to a peace agreement may cooperate with the states to which refugees have fled to ensure that the host states respect the human rights of refugees and permit the refugees to leave in a safe and dignified manner.³⁹

³⁴ General Peace Agreement for Mozambique, Protocol III, art. IV, para. e, Oct. 4, 1992, available at http://www.usip.org/library/pa/mozambique/mozambique_1991-92_toc.html (last accessed Sept. 8, 2007).

³⁵ General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 7, art. I, para. 1, Dec. 14, 1995, available at http://www.ohr.int/dpa/default.asp?content_id=380 (last accessed Sept. 8, 2007).

³⁶ Croatia passed the Programme of Return and Accommodation of Expellees, Displaced Persons, and Refugees, which established Housing Commissions to oversee the return of occupied private properties to their pre-conflict owners. PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE, RECOMMENDATION 1406 (1999): RETURN OF REFUGEES AND DISPLACED PERSONS TO THEIR HOMES IN CROATIA, available at <http://assembly.coe.int/Documents/AdoptedText/ta99/erec1406.htm> (last accessed Sept. 7, 2007). Croatia passed the Programme of Return and Accommodation of Expellees, Displaced Persons, and Refugees, which established Housing Commissions to oversee the return of occupied private properties to their pre-conflict owners.

³⁷ For more information about the Commission in Bosnia and Herzegovina, see the Implementation Mechanisms chapter in this guide.

³⁸ For more information on human rights provisions in peace agreements, see the Human Rights chapter in this guide.

³⁹ Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, sec. II, para. 12.

Additionally, the parties may recognize that some groups of displaced persons, such as women and children, are more vulnerable than others and require special protections.⁴⁰

In Sierra Leone, the peace agreement between the Sierra Leonean government and the Revolutionary United Front of Sierra Leone explicitly provided for the protection of human rights by agreeing that the parties would uphold the Universal Declaration of Human Rights. The peace agreement also specifically listed the rights guaranteed to the people of Sierra Leone.⁴¹ In Uganda, the government adopted the National Policy for Internally Displaced Persons, which adheres to international treaties governing the rights of IDPs, including the African Charter on Human and People's Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and the United Nations Guiding Principles on Internal Displacement, among others.⁴² The Ugandan government also created the Uganda Human Rights Committee and the Human Rights Protection and Promotion Subcommittee to ensure the protection of displaced persons' human rights at both the state and local levels.⁴³

Implementation Mechanisms

Effective peace agreements generally address two primary issues to enforce and implement the right of return for displaced persons. First, peace agreements address funding for repatriation. Second, peace agreements provide for mechanisms to monitor and enforce the repatriation process. Drafters of displaced persons provisions in peace agreements may wish to develop implementation mechanisms incorporating international funding assistance and creating monitoring and enforcement mechanisms.

Formation of a Commission and its Composition

⁴⁰ Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone art. XXVIII, para. 2; Aug. 28, 2000, Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV, ch. 1, art. 10.

⁴¹ Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone art. XXIV.

⁴² The National Policy for Internally Displaced Persons, ch. 1, Guiding Principles.

⁴³ The National Policy for Internally Displaced Persons, ch. 2.3.

Many peace agreements create a commission or task force to develop the mechanisms for return of displaced persons. The Arusha Peace and Reconciliation Agreement for Burundi established a National Commission for the Rehabilitation of displaced persons to create and implement return and reintegration mechanisms.⁴⁴ The peace agreement between the Sierra Leonean government and the Revolutionary United Front of Sierra Leone also established a National Commission for Reconstruction, Resettlement, and Rehabilitation,⁴⁵ which developed the Sierra Leone Resettlement Strategy.⁴⁶ Sierra Leone successfully implemented its Resettlement Strategy and returned and reintegrated 223,000 IDPs (most of the IDP population) in less than two years.⁴⁷

Commission members vary depending on the parties involved. If displaced persons have fled to a neutral third state, that third state also could participate in drafting the agreement and provide a representative for the commission. In addition, the drafters may consider other relevant representational issues and may include commissioners from different tribes and political parties. The Arusha Peace and Reconciliation Agreement for Burundi specified that the commission would include members representing each of the parties to the agreement as well as the Burundi government.⁴⁸ In Guatemala, the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict established a Technical Committee to implement the principles and mechanisms in the peace agreement.⁴⁹ The agreement provided that the Technical Committee would include representatives of the displaced persons, as well as representatives from the government and from participating international organizations.⁵⁰

⁴⁴ Arusha Peace and Reconciliation Agreement for Burundi, Aug. 28, 2000, Protocol IV, ch. 1, art. 3.

⁴⁵ Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, art. XXVIII.

⁴⁶ Sierra Leone Resettlement Strategy (2001).

⁴⁷ INTERNAL DISPLACEMENT MONITORING CENTRE, SIERRA LEONE: OVERVIEW, *available at* [http://www.internal-displacement.org/8025708F004CE90B/\(httpCountrySummaries\)/0372C6E093AFEFEB802570C00056B6D0?OpenDocument&count=10000#anchor1](http://www.internal-displacement.org/8025708F004CE90B/(httpCountrySummaries)/0372C6E093AFEFEB802570C00056B6D0?OpenDocument&count=10000#anchor1) (last accessed Sept. 20, 2007).

⁴⁸ Arusha Peace and Reconciliation Agreement for Burundi, Aug. 28, 2000, Protocol IV, ch. 1, art. 3.

⁴⁹ Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, sec. V.

⁵⁰ Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, sec. V.

Functions of the Commission: Planning for Resettlement & Reintegration

Commissions may create and implement programs for the sustainable reintegration of displaced persons. A resettlement plan that encompasses humanitarian, economic, and security concerns further facilitates the return of displaced persons. The Technical Committee in Guatemala conducted surveys of displaced persons to evaluate their needs before the resettlement agreement entered into force.⁵¹ Once the Guatemalan government enacted the resettlement agreement and began implementing its resettlement mechanisms, the Technical Committee was responsible for overseeing the implementation of the resettlement agreement, including prioritizing resettlement programs and allocating funds to the programs.⁵²

In addition to implementing and overseeing the resettlement process, other states have established specialized commissions to address issues that were central to the conflict. In Sierra Leone, where the armed conflict caused many instances of human rights violations, the Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone provided for the establishment of a Human Rights Commission to redress the grievances of victims of human rights violations.⁵³ In the Balkans, many displaced persons made claims for property restitution. To address the issue of property restitution, the General Framework Agreement for Peace in Bosnia and Herzegovina established a Commission for Displaced Persons and Refugees, which was responsible for handling property claims by displaced persons.⁵⁴ The General Framework Agreement for Peace in Bosnia and Herzegovina described how the commission would conduct its proceedings and included standards for determining whether displaced persons may either recover or receive compensation for their property.⁵⁵

Support and Assistance from the International Community

⁵¹ Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, sec. V, para. 4.

⁵² Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, sec. V, para. 5.

⁵³ Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone art. XXV.

⁵⁴ General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 7, ch. 2.

⁵⁵ General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 7, ch. 2, art. XII.

The parties may seek assistance from the international community to help fund and implement the resettlement programs.⁵⁶ The parties to the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict in Guatemala called on the United Nations Development Program and the international community to assist with its resettlement strategy by providing funding and by overseeing its distribution among the resettlement programs.⁵⁷ Similarly, the parties to the Arusha Peace and Reconciliation Agreement for Burundi agreed to seek assistance from the World Bank, the United Nations Development Program, the Office of the United Nations High Commissioner for Refugees, and the European Commission to provide funding and oversee the implementation of its resettlement strategies.⁵⁸ The international community may be able to provide more funding and better oversight for repatriation programs than if states attempted to implement the programs on their own.

DARFUR PEACE AGREEMENT

The 2006 Darfur Peace Agreement (DPA) defines “internally displaced persons” as “persons or groups of persons who have been forced or obliged to flee their homes or places of habitual residence, in particular as a result of, or in order to avoid, the effects of armed conflict, situations of generalized violence, violations of human rights or natural or man-made disaster and who have not crossed an international border,” in accordance with the Guiding Principles on Internal Displacement.⁵⁹ The DPA refers to refugees and internally displaced persons collectively as “displaced persons.”⁶⁰

The DPA provides that the parties will work with the African Union (AU) to provide physical security to displaced persons, including security from violations

⁵⁶ Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV, ch. 1, art. 9. In addition to international contributions, Burundi allocated funds from the state budget to pay for its resettlement programs. Arusha Peace and Reconciliation Agreement for Burundi, Aug. 28, 2000, Protocol IV, ch. 1, art. 9.

⁵⁷ Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict, sec. V, para. 6.

⁵⁸ Arusha Peace and Reconciliation Agreement for Burundi, Aug. 28, 2000, Protocol IV, ch. 3, art. 17, Aug. 28.

⁵⁹ Darfur Peace Agreement, Definitions, May 5, 2006, *available at* http://www.unmis.org/english/2006Docs/DPA_ABUJA-5-05-06-withSignatures.pdf (last accessed Sept 21, 2007).

⁶⁰ Darfur Peace Agreement, Definitions.

of human rights, as well as harassment or coercion.⁶¹ In addition, the DPA provides for displaced persons to have access to basic amenities, such as food, water, and shelter, while they are returning.⁶²

Rights of Displaced Persons

The DPA provides displaced persons with the right to make an informed, voluntary return.⁶³ To facilitate this right, the DPA provides that displaced persons have the right to “objectively reliable information about conditions in their places of origin,” and the AU has the authority to monitor the return of displaced persons to ensure their protection and proper treatment.⁶⁴ Although the DPA does not provide explicitly for the right of citizenship, the DPA effectively provides displaced persons with this right by requiring the Darfur Rehabilitation and Resettlement Commission (DRRC) to “issue to displaced persons all documents necessary for the exercise of their legal rights,” including passports, birth certificates, and titles to property.⁶⁵ The DPA also provides, “When necessary, traditional administration or community leadership shall be used for proof of identity.”⁶⁶

The DPA gives displaced persons the right to restitution of their property or to compensation if they cannot recover their lost property.⁶⁷ The DPA establishes a property restitution system in which local Property Claims Committees resolve property disputes.⁶⁸ The DPA also provides for protection of the human rights of displaced persons, including the right to freedom of movement and of choice of residence.⁶⁹ The DPA guarantees respect for human rights as set out in international humanitarian law.⁷⁰

Implementation Mechanisms

⁶¹ Darfur Peace Agreement, art. 21, paras. 185-186.

⁶² Darfur Peace Agreement, art. 21, para. 187.

⁶³ Darfur Peace Agreement, art. 21, para. 178.

⁶⁴ Darfur Peace Agreement, art. 21, para. 178.

⁶⁵ Darfur Peace Agreement, art. 21, para. 191.

⁶⁶ Darfur Peace Agreement, art. 21, para. 191.

⁶⁷ Darfur Peace Agreement, art. 21, para. 194.

⁶⁸ Darfur Peace Agreement, art. 21, para. 197. For more information on the property restitution system in the DPA, see the DPA section in the chapter on Property Restitution of this Guide.

⁶⁹ Darfur Peace Agreement, art. 21, para. 176.

⁷⁰ Darfur Peace Agreement, art. 21, para. 176.

The DPA grants the Transitional Darfur Regional Authority the primary responsibility for developing and implementing repatriation programs for displaced persons.⁷¹ The DPA establishes the Darfur Rehabilitation and Resettlement Commission (DRRC) to assess the effectiveness of the repatriation programs.⁷² The DRRC's responsibilities include providing basic amenities to returning displaced persons and conducting surveys to assess the situation of displaced persons.⁷³ Additionally, the DRRC is responsible for issuing documentation to displaced persons,⁷⁴ facilitating the reunion of unaccompanied minors with their parents,⁷⁵ and establishing a property restitution system.⁷⁶

The DPA also creates a separate Compensation Commission to address the grievances of victims of armed conflict in Darfur.⁷⁷ The Compensation Commission can hear claims of victims of “physical or mental injury, emotional suffering or human and economic losses, in connection with the conflict.”⁷⁸ The DPA requires that the parties nominate the members of the Compensation Commission. The DPA intends that the members represent the affected communities.⁷⁹ The DPA also requires the Compensation Commission to refer any property claims to the Property Claims Committees.⁸⁰

International Cooperation and Support

The DPA allows the United Nations and other international organizations to provide humanitarian aid to displaced persons “whether they are in urban, rural or camp settings.”⁸¹ The DPA also provides that the Government of Sudan and the AU should work together to ensure protection of human rights,⁸² to ensure the

⁷¹ Darfur Peace Agreement, art. 6, para. 53, sec. a.

⁷² Darfur Peace Agreement, art. 21, para. 182.

⁷³ Darfur Peace Agreement, art. 21, paras. 182, 187.

⁷⁴ Darfur Peace Agreement, art. 21, para. 191.

⁷⁵ Darfur Peace Agreement, art. 21, para. 193.

⁷⁶ Darfur Peace Agreement, art. 21, para. 195.

⁷⁷ Darfur Peace Agreement, art. 21, para. 200.

⁷⁸ Darfur Peace Agreement, art. 21, para. 200.

⁷⁹ Darfur Peace Agreement, art. 21, para. 202.

⁸⁰ Darfur Peace Agreement, art. 21, para. 204. For more information on the Compensation Commission, see the chapter on Victim Compensation in this guide.

⁸¹ Darfur Peace Agreement, art. 21, para. 184.

⁸² Darfur Peace Agreement, art. 21, para. 185.

security of returning displaced persons,⁸³ and to meet the basic needs of displaced persons.⁸⁴ The Government of Sudan agrees to provide the funds necessary to implement the repatriation programs.⁸⁵ The DPA also provides for international funding contributions to the Darfur Reconstruction and Development Fund, which the Government of Sudan can use to fund repatriation programs.⁸⁶

SAMPLE LANGUAGE

Article XXX

Definition of Refugees and Internally Displaced Persons

- (1) Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-induced disasters, and who have not crossed an internationally recognized State border.
- (2) Refugees are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-induced disasters, and who have crossed an internationally recognized State border.⁸⁷
- (3) The term “displaced persons” designates all internally displaced persons and refugees.⁸⁸

⁸³ Darfur Peace Agreement, art. 21, paras. 185-186.

⁸⁴ Darfur Peace Agreement, art. 21, para. 181.

⁸⁵ Darfur Peace Agreement, art. 21, para. 180.

⁸⁶ Darfur Peace Agreement, art. 19, para. 154, sec. a.

⁸⁷ This language is drawn from the Glossary of Terms of the Ugandan National Policy for Internally Displaced Persons. These definitions are consistent with the Guiding Principles on Internal Displacement and the Convention Relating to the Status of Refugees.

⁸⁸ This language is drawn from the Arusha Peace and Reconciliation Agreement for Burundi, protocol IV, art. 1. Similarly, in Guatemala, the Agreement on the Resettlement of the Population Groups Uprooted by the Armed Conflict refers to all IDPs, refugees, and returnees as the “uprooted population.” Agreement on the Resettlement of the Population Groups Uprooted by the Armed Conflict, sec. I, Definitions, para. 1.

OR

For the definition of the term “refugee,” reference is made to international conventions, including the 1951 Geneva Convention Relative to the Status of Refugees, the 1966 Protocol Relative to the Status of Refugees and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa.⁸⁹

Article XXX
Guarantee of Safety

As a reaffirmation of their commitment to the observation of the conventions and principles of human rights and the status of refugees, the Parties shall take effective and appropriate measures to ensure that the right of displaced persons to asylum is fully respected and that no camps or dwellings of refugees or displaced persons are violated.⁹⁰

Article XXX
Cooperation with the International Community

- (1) The parties agree that all duly registered humanitarian agencies shall be guaranteed safe and unhindered access to all areas under the control of the respective parties in order that humanitarian assistance can be delivered safely and effectively, in accordance with international conventions, principles and norms governing humanitarian operations.
- (2) In this respect the Parties shall:
 - (a) Guarantee safe access and facilitate the fielding of independent assessment missions by duly registered humanitarian agencies;
 - (b) Identify, in collaboration with the [United Nations and African Union], mutually agreed routes (road, air and waterways) by which

⁸⁹ This language is drawn from the Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV, art. 1.

⁹⁰ This language is drawn from the Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, art. XXIII. The Arusha Peace and Reconciliation Agreement for Burundi makes a similar reference to the guarantee of security for returning displaced persons. Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV, art. 2, sec. 2, para. c.

- humanitarian goods and personnel shall be transported to the beneficiaries to provide needed assistance;
- (c) Allow duly registered humanitarian agencies to deliver assistance according to needs established through independent assessments; and
 - (d) Guarantee the security of all properties and of and goods transported, stocked or distributed by the duly registered humanitarian agencies, as well as the security of their project areas and beneficiaries.
- (3) The parties agree to set up at various levels in their areas of control, the appropriate and effective administrative and security bodies which will monitor and facilitate the effective delivery of humanitarian assistance in all approved points of delivery, and ensure the security of the personnel, goods and project areas of the humanitarian agencies as well as the safety of the beneficiaries.⁹¹

Article XXX

Rights of Displaced Persons

- (1) Displaced persons have the right to reside and live freely in Sudanese territory. Accordingly, the Government of Sudan undertakes to ensure that conditions exist which permit and guarantee the voluntary return of displaced persons to their places of origin or to the available place of their choice, in conditions of dignity and security.⁹²

⁹¹ This language is drawn from the Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, Annex IV. The Arusha Peace and Reconciliation Agreement for Burundi also provides for the safety of humanitarian agencies providing aid to displaced persons. Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV, art. 7. Liberia agreed to allow the United Nations to monitor its displaced persons camps. Declaration of the Rights and Protection of Liberian Internally Displaced Persons, sec. 2.

⁹² This language is drawn from paragraph 1 of the Principles section of section 1 of the Guatemalan Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict. The General Framework Agreement for Peace in Bosnia and Herzegovina also provides displaced persons with the right to informed, voluntary return. General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 7, art. 1, para. 1. Article XXII of the Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone contains a similar provision.

- (2) Displaced persons must have their rights as citizens restored to them in accordance with the laws and regulations in force in the Republic of Sudan after the entry into force of the Agreement.⁹³
- (3) Displaced persons shall have the right to have restored to them property of which they were deprived in the course of hostilities and to be compensated for any property that cannot be restored to them.⁹⁴
- (4) Full respect for the human rights of displaced persons shall be an essential condition for their resettlement.⁹⁵

OR

- (1) The basic civil and political liberties recognized by the Sudanese legal system and contained in the declarations and principles of Human Rights adopted by the UN and OAU, especially the Universal Declaration of Human Rights and the African Charter on Human and People's Rights, shall be fully protected and promoted within the Republic of Sudan. These include the right to life and liberty, freedom from torture, the right to a fair trial, freedom of conscience, expression, and association, and the right to take part in the governance of one's country.⁹⁶

Article XXX

Formation of a Commission for Displaced Persons

⁹³ This language is drawn from the Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV, art. 2. The Ugandan National Policy for Internally Displaced Persons provides that IDPs should have "all necessary documents to enable them to realise fully enjoyment and exercise of their rights." National Policy for Internally Displaced Persons, ch. 3.5. The Guatemalan Agreement on the Resettlement of the Population Groups Uprooted by the Armed Conflict also provides for the return of identity documentation to displaced persons. Agreement on the Resettlement of the Population Groups Uprooted by the Armed Conflict, sec. II, para. 7.

⁹⁴ This language is drawn from the General Framework Agreement for Peace in Bosnia and Herzegovina, annex 7, art. 1. The General Peace Agreement for Mozambique provides that displaced persons have a right to sue to recover their lost property. General Peace Agreement for Mozambique, Protocol III, art. IV, para. e.

⁹⁵ This language is drawn from the Guatemalan Agreement on the Resettlement of the Population Groups Uprooted by the Armed Conflict, Principles Section, sec. 1, para. 1.

⁹⁶ This language is drawn from the Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, art. XXIV.

The Government shall establish and constitute a Commission for Displaced Persons, which shall have the mandate of organizing and coordinating, together with international organizations and countries of asylum, the return of displaced persons and assisting in their resettlement and reintegration.⁹⁷

OR

The Parties hereby establish an independent Commission for Displaced Persons. The Commission for Displaced Persons shall receive and decide any claims for real property in Darfur, where the property has not voluntarily been sold or otherwise transferred, and where the claimant does not now enjoy possession of that property. Claims may be for return of the property or for just compensation in lieu of return.⁹⁸

Article XXX

Composition of the Commission for Displaced Persons

The members of the Commission for Displaced Persons shall be drawn from the participating parties and the Government of Sudan and shall elect the Commission's chairperson.⁹⁹

OR

The Commission for Displaced Persons shall be composed of X members. The Government of Sudan shall appoint X members, and the region of Darfur shall appoint X members. The United Nations [or other international

⁹⁷ This language is drawn from the Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV, art. 3. The Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone also provides for the establishment of a National Commission for Resettlement, Rehabilitation, and Reconstruction to design and implement a repatriation plan. Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, art. XXII.

⁹⁸ This language is drawn from the General Framework Agreement for Peace in Bosnia and Herzegovina, annex 7, arts. VII, XI. The General Framework Agreement for Peace in Bosnia and Herzegovina does not provide for a general Commission for Displaced Persons to oversee the return of displaced persons. Rather, the parties to the General Framework Agreement for Peace in Bosnia and Herzegovina agree to work with the United Nations High Commissioner for Refugees to develop a repatriation plan.

⁹⁹ This language is drawn from the Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV, art. 3.

organization] shall appoint the remaining members and shall designate one such member as the Chairman. The members of the Commission may be reappointed.¹⁰⁰

Article XXX

Support from the International Community

The Parties shall facilitate the provision of adequately monitored, short-term repatriation assistance on a nondiscriminatory basis to all returning displaced persons who are in need, in accordance with a plan developed by the United Nations High Commissioner for Refugees [or other international humanitarian organization] and other relevant organizations, to enable the families and individuals returning to reestablish their lives and livelihoods in local communities.¹⁰¹

OR

For the purpose of ensuring implementation of the resettlement strategy, the Parties agree to establish a fund to implement the agreement on resettlement of displaced persons essentially with contributions from the international community. The United Nations Development Programme (UNDP) shall be asked to administer the funds of each of the projects to be executed.¹⁰²

¹⁰⁰ This language is drawn from the General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 7, arts. VII, XI, and XII.

¹⁰¹ This language is drawn from the General Framework Agreement for Peace in Bosnia and Herzegovina, annex 7, art. IV. The Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone also stipulates that the parties agree to seek assistance from the United Nations and other international organizations in designing and implementing a repatriation program. Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, art. XXII.

¹⁰² This language is drawn from the Guatemalan Agreement on the Resettlement of the Population Groups Uprooted by the Armed Conflict, para. 6, sec. V. The Arusha Peace and Reconciliation Agreement for Burundi also establishes a fund to implement its repatriation program, with money coming from the state budget as well as from donations from international organizations. Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV, art. 9. The Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone establishes a similar fund for its repatriation program. Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone, art. XXIX.