



# Refugee Law Project

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Briefing  
Paper  
December  
2007

## WHAT ABOUT US? THE EXCLUSION OF URBAN IDPS FROM UGANDA'S IDP RELATED POLICIES AND INTERVENTIONS

### INTRODUCTION

Violent conflict between the Uganda People's Defence Forces (UPDF) and the Lord's Resistance Army (LRA) has plagued northern Uganda for the past 20 years. At its peak, the conflict displaced at least two million people, many of whom fled to or were forced into notoriously unsafe and inhumane camps for internally displaced persons (IDPs) known as "protected villages".

While such figures earned northern Uganda the dubious accolade of being one of the worst humanitarian emergencies in the world,<sup>1</sup> they do not describe the full extent of conflict-related displacement. Over the years, unknown numbers of people also fled to urban centres across northern Uganda, as well as to more distant places like Masindi, Kampala, and Jinja, rather than to the squalid IDP camps in their home areas.

With the exception of profiling studies conducted in Masindi, Adjumani, Lango, and Teso,<sup>2</sup> these "urban"<sup>3</sup> IDPs have never been registered. The numbers of urban-based IDPs are therefore unknown, but estimates range between 300 000 and 600 000 persons affected by conflict in various parts of the country.<sup>4</sup> Large numbers stay in slum areas and require protection and assistance. Such deficiencies constitute a significant challenge to existing policy frameworks, notably the National Policy for Internally Displaced Persons. Moreover, these deficiencies raise questions about whether policies intended to resolve this long-standing IDP crisis, such as the recently launched Peace, Recovery and Development Plan (PRDP), will do so in a sufficiently comprehensive manner.

<sup>1</sup> Jan Egeland, UN Secretary General for Humanitarian Affairs and Emergency Relief Coordinator called the conflict in Northern Uganda the "biggest forgotten, neglected humanitarian emergency in the world today", Nairobi 11 November 2003.

<sup>2</sup> IOM (2006): *Assessment of IDP population in Masindi district, Uganda*

OPM & IOM (2006): *IDP profiling in Lango and Teso sub-regions, Uganda*

Okello, Moses Chrispus & Ng, Joel (2006): RLP Working Paper 19: *Invisibly Displaced Persons in Adjumani*

<sup>3</sup> 'Urban' IDPs will in this paper be used to refer to IDPs who have moved to urban areas. Although the paper focuses on IDPs from the conflict in Northern Uganda, urban IDPs from Karamoja are also of concern.

<sup>4</sup> Even the lower of these two figures represents a sizeable number. (see Jeremy Grace (2005): *Internally Displaced Persons in the 2006 National Elections, Action Plan*, IOM Project on Political Rights and Enfranchisement System Strengthening (PRESS). Final Report, May 2005, p8). Slums in Kampala include Banda (Nicknamed 'Acholi Quarters'), Naguru Go-Down, Wabigalo, Namuwongo, Kibuli, and Kamwyoka (Source: Letter dated 14 October 2007 from Acholi Local Community Internally Displaced Persons (IDPs) temporarily living in Kampala). In Jinja slums hosting urban IDPs include Mpumude, Makenge, Masese, Walukuba and Kakira/Wandago (Source: Letter from The Displaced Community Acholi, Lango and Teso Jinja District received at Refugee Law Project 16 September 07 (on file)

Furthermore, if peace is established and the majority of rural IDPs return home, then the ongoing exclusion and marginalisation of urban-based IDPs from these return processes will be problematic for subsequent transitional justice and reintegration processes as envisaged under the Accountability and Reconciliation Agreement signed by the Government of Uganda (GoU) and the LRA.<sup>5</sup> Underpinning all of these concerns is Uganda's 1995 constitution. It guarantees a wide range of rights to all Ugandan citizens, including the right to freedom of movement and choice of residence.

## DEFINING INTERNAL DISPLACEMENT

In 2004, Uganda became one of the first countries in the world to establish a national policy for IDPs. In the two years following the establishment of this policy, little was done to implement the provisions of the policy and the humanitarian situation in northern Uganda appeared to be deteriorating further. In response to the threat of UN Security Council action,<sup>6</sup> GoU established a Joint Country Coordination and Monitoring Committee, subsequently renamed the Joint Monitoring Committee (JMC). This JMC was to assist in the effective implementation of the Government's proposed Peace Recovery and Development Plan (PRDP) for northern Uganda, which was eventually launched in October 2007.<sup>7</sup>

Both the National Policy for IDPs and the PRDP—in deference to the Guiding Principles on Internal Displacement—define IDPs as;

*“persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-induced disasters, and who have not crossed an internationally recognized State border.”<sup>8</sup>*

From this definition it is clear that the key identifying criteria for determining who an IDP is are the person's reasons for flight, and whether he or she remains within the borders of their own country. In principle, the choice of destination within that country should not determine whether or not the person is an IDP. Indeed, section 3.2 of the National Policy states that IDPs should “freely choose their place of residence”, and “move freely in and out of camps, other settlements or any other part of the country”

Moreover, both the national IDP policy and the PRDP guarantee a number of rights and protections to IDPs throughout all phases of displacement. These entitlements include the

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<sup>5</sup> In late 2006, Government of Uganda and the Lords Resistance Army (LRA) started peace negotiations in the Southern Sudanese City of Juba. In July 2007, the negotiation team reached an agreement on Accountability and Reconciliation, which prescribes numerous transitional justice mechanisms for dealing with justice issues generated in the course of the conflict.

<sup>6</sup> At this point two Security Council Resolutions had already been passed (1653 and 1663), and a third resolution was on the horizon. This prompted the Charge d'Affaires a.i. of the Permanent Mission of Uganda to the United Nations to address a letter to the President of the Security Council, Gen. S/2005/785 (13 December 2005)

<sup>7</sup> Paradoxically, this same JMC also developed its own Emergency Action Plan for Humanitarian Action, pending the finalisation of the PRDP

<sup>8</sup> The National Policy for Internally Displaced Persons (2004), ss X.

right to freedom of movement—which is also protected by the Bill of Rights in Uganda’s 1995 Constitution,<sup>9</sup> the right to voluntary return or resettlement, the right to property restitution and compensation, and the right to receive resettlement assistance.<sup>10</sup>

In short, both policies appear to be in line with the Guiding Principles on International Displacement which enjoin governments to “establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily in safety and with dignity to their homes or places of habitual residence or to settle voluntarily in another part of the country.”<sup>11</sup> The PRDP specifically obliges the government to carry out a number of “pre-departure activities [that] aim at building confidence and understanding of the IDPs about the necessary peace and security conditions and processes for return and resettlement.”<sup>12</sup>

Notwithstanding these entitlements, both the national IDP policy and the PRDP are primarily focused on rural IDPs, to the exclusion of their urban counterparts. Several clauses in the national IDP policy make it clear that the drafters really had rurally encamped IDPs in mind. For instance, section 2.4 provides for institutional arrangements relating to IDPs and reflects the assumption that only those individuals confined to rural camps are IDPs:

“The District Disaster Management Committee (DDMC) of every district will be the lead agency for the protection and assistance of internally displaced persons” and goes on to say that “One male and one female IDP physically resident in one of the IDP camps in the district shall represent all IDPs of the district in the DDMC” (2004: 11)

The PRDP similarly fails to address the question of IDPs living in urban areas, and thus perpetuates the omissions of the 2004 policy. It clearly states that the objective of its return and resettlement program is “to facilitate the voluntary return of IDPs *from camps* to their places of origin and/or any other location of their preference as peace returns” (emphasis added).<sup>13</sup>

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<sup>9</sup> The National Policy for Internally Displaced Persons (2004): Principle 3.2 and strategies 2 and 3.

The Constitution of the Republic of Uganda (1995): Article 2a

<sup>10</sup> The National Policy for Internally Displaced Persons (2004), Article 3.4: “The Government commits itself to promote the right of IDPs to return voluntarily, in safety and dignity, to their homes or places of habitual residence or to resettle voluntarily in another part of the country.”, Article 3.6: “Local Governments shall endeavour to assist IDPs to return, resettle and reintegrate, by acquiring or recovering their land in accordance with the provisions of the Land Act of 1998. Where the recovery of land is not possible, Local Governments shall endeavour to acquire and allocate land to the displaced families.”, Article 3.14: “The [Office of the Prime Minister/Department for Disaster Preparedness], Local Governments and humanitarian and development partners shall provide resettlement inputs and tools to returned and resettled families, as well as tool kits to support construction and self-employment. Displaced persons shall be consulted on the most appropriate inputs to meet their food security needs under prevailing conditions.”

<sup>11</sup> UNOCHA (1998): *Guiding Principles on Internal Displacement*, Guiding Principle 28.1

<sup>12</sup> PRDP (2006), Article 4.2.2

<sup>13</sup> PRDP (2006), Article 4.2.2, emphasis added. However, when talking about return to place of origin or resettlement to other locations in the same article, one can find contrasting statements as: “The assistance given to the IDPs is the same irrespective of location where they decide to stay.”

This *de facto* focus on rural populations undermines the principles behind IDP protection and assistance embodied in Uganda's National Policy and other international legal instruments signed, ratified or assented to by GoU. Just as IDPs should be able to choose a residence in any part of the country, their choice of residence while internally displaced should not affect their right to assistance when it comes to return. Since mid-2006 when the Juba peace talks commenced, northern Uganda has seen a period of relative stability characterised by assorted patterns of population movement, including return to places of former abode and movement into transition sites. Although an estimated one million persons have begun the return process, mainly in the Lango and Teso regions, at least another one million people remain in the rural IDP camps, while unknown numbers remain in their urban location, and quite possibly are unable to return if no assistance is forthcoming.<sup>14</sup>

The exclusion of urban IDPs from key policy frameworks is thus of particular concern when it comes to ensuring a comprehensive return and resettlement process. Should they continue to be ignored, this may also affect subsequent transitional justice processes.

### **IDENTIFYING URBAN IDPS**

In part, the exclusion of urban IDPs from assistance stems from their low visibility and varied settlement strategies. Problems with identifying IDP populations in urban settings also make it difficult for GoU and humanitarian actors to address the needs of urban IDPs.<sup>15</sup> A fundamental obstacle to assisting IDPs who do not live in or around camps or official settlements is that the official process through which they may be identified and registered is not always used by the responsible officials.<sup>16</sup> Whereas rural IDPs have at times had ration cards indicating residence in an IDP camp—itsself an unsatisfactory form of documentation insofar as it was given to the apparent head of household—urban IDPs have no corresponding form of documentation with which to signify their displacement.<sup>17</sup> Therefore, they often disappear into the larger population of rural-urban migrants, despite the fact that their reasons for moving are different.

In Uganda, IDPs' choice of an urban destination is influenced by a number of factors. They include; access to employment opportunities rooted in a reluctance to be dependant on food rations; frustration with lack of livelihood options in the camps; reunification with family members, and the lack of adequate protection provided in rural camps.<sup>18</sup> Underlying all of this is the lack of security which forced them to leave their homes in the

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<sup>14</sup> IASC Working Group: Update on IDPs movement September 2007

<sup>15</sup> Okello, Moses Chrispus & Ng, Joel (2006): RLP Working Paper 19: *Invisibly Displaced Persons in Adjumani*

Woodburn, Ursula (2007): *Mon dong gu dugu calo coo - "Women have become like men"*- IDPs in Gulu municipality, Gender and Livelihoods – University of Antwerp

<sup>16</sup> Section 2.4.i stipulates that 'The CAO of the District and the District Probation and Welfare Officer (DPWO) shall at the District level, be responsible for the day to day protection and ensuring the welfare of Internally Displaced Persons, managing and creating conditions conducive to their return, and managing their resettlement and reintegration'

<sup>17</sup> Despite of the existence of Principle 2.4 in the National Policy which states that the District Probation and Welfare Officer is at the district level responsible for drafting and filing reports relating to the conditions of the displaced persons and maintaining a database on IDPs.

<sup>18</sup> Refstie, Hilde (forthcoming): *IDPs in Kampala - Location and access to durable solutions*, Norwegian University of Technology and Science, Research Associate at Refugee Law Project

first place and which distinguishes them from “voluntary” rural-urban migrants. A number of people also fled directly to urban areas at a time when official IDP camps had not yet been established.<sup>19</sup>

### ‘THE END OF DISPLACEMENT’

As there is no official IDP status that can be revoked, decisions on when displacement ends have tended to be *ad hoc* and varied. Walter Kälin (the UN Representative of the Secretary-General on Human Rights of Internally Displaced Persons), together with the Brookings-Bern Project on Internal Displacement, and the Institute for the Study of International Migration at Georgetown University, have argued that internal displacement can be said to end when an IDP no longer has displacement-specific needs and has either returned to his or her place of origin, is locally integrated in the area in which he or she initially took refuge, or has settled in another part of the country.<sup>20</sup> The key criterion for all three solutions is whether IDPs still have displacement related needs, and this can be difficult to determine.<sup>21</sup>

Using these criteria, agency officials may judge urban IDPs as integrated into their “new” local communities and therefore no longer in need of assistance. This may be because urban IDPs settle mostly in slum areas and therefore their assistance needs are “similar” to those of the surrounding population. However, living in such slum conditions can not be accepted as a durable solution. Given that many IDPs were rurally based prior to displacement and therefore not necessarily well equipped to cope in urbanised settings makes them vulnerable both to the psychosocial impact of displacement and to the demands of living in an urban area. Moreover, some urban IDPs the RLP spoke with have displacement-specific needs for assistance in return or resettlement, especially payment of transportation costs and other reintegration needs.<sup>22 23</sup>

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<sup>19</sup> Rowley, Elisabeth (2006): *Acholi Internally Displaced Persons in Kampala, Uganda: Migration Trends and Living Conditions*, Presentation for the APHA 134<sup>th</sup> Annual Meeting and Exposition: Public Health and Human Rights, 6<sup>th</sup> Nov 2006, Johns Hopkins Bloomberg School of Public Health, Center for Refugee and Disaster Response

Sohne, I. Sandra (2006): *Coping with Displacement – The case of Internally Displaced Persons in Jinja, Uganda*, The Fletcher school, Tufts University

<sup>20</sup> Statement by Mr. Walter Kälin, Representative of the Secretary-General on human rights of internally displaced persons to the 62nd Session of the General Assembly, Third Committee 29. October 2007

<sup>21</sup> Brookings Institution (June 2007): *When displacement ends – A framework for durable solutions*, University of Bern, Project on internal displacement and the Institute for the study of International migration at Georgetown University.

<sup>22</sup> This is of particular concern when it comes to paying for transportation, since most urban IDPs are living in areas far from their original homes and do not earn enough to pay for the long journey north. Indeed, many urban IDPs earn less than 2,000 Ugandan shillings per day. After paying for food and rent, IDPs with such a meagre income can barely afford the trip back home, let alone the cost of rebuilding their lives from scratch once they return.

<sup>23</sup> Refstie, Hilde (forthcoming): *“IDPs in Kampala- Location and access to durable solutions”*, Norwegian University of Technology and Science, associate at Refugee Law Project

Refugee Law Project: Field visit Jinja, Mpumude, 21.10.07,

Rowley, Elisabeth (2006): *Acholi Internally Displaced Persons in Kampala, Uganda: Migration Trends and Living Conditions*, Presentation for the APHA 134<sup>th</sup> Annual Meeting and Exposition: Public Health and Human Rights, 6<sup>th</sup> Nov 2006, Johns Hopkins Bloomberg School of Public Health, Centre for Refugee and Disaster Response

## CONCLUSION

Despite the fact that international guidelines and national policies surrounding internal displacement do not in principle discriminate against IDPs based on location, urban IDPs in Uganda are effectively excluded from assistance programs because Government, international agencies and NGOs have all neglected to recognise them as internally displaced. Urban IDPs are entitled to the same rights and privileges as other IDPs and should not be denied assistance simply because they live in urban areas. The challenges that arise in distinguishing urban IDPs from other migrants in urban settings appear to have resulted in their exclusion from formalized support. In practice, IDPs have been defined as those people who were displaced into rural IDP camps, a definition that undermines the protection and assistance needs of those who were displaced to other parts of the country.

As one of the first countries in which UNHCR is formally extending its mandate from refugees to IDPs, it is unfortunate that this important UN body has not evaded the pitfall of assuming that the only IDPs of concern are those in rural areas. The Government's PRDP for rehabilitating the north reflects the same gap as it excludes urban IDPs from stipulations of assistance. To ensure that such neglect does not continue, key actors need to return to the legal and policy frameworks surrounding internal displacement and must endeavour to fulfil their obligations to protect and assist *all* IDPs, especially in the implementation of the PRDP. If they are to determine what constitutes a durable solution for this marginalized population, this will require the GoU and international agencies to increase their efforts to assess the vulnerability and specific needs of urban IDPs.

## RECOMMENDATIONS

### TO THE GOVERNMENT:

- Make explicit the inclusion of urban IDPs in Uganda's IDP related policies and interventions
- Address the gap between policy and practice regarding urban IDPs
- Involve urban IDP community groups in developing assistance and return or resettlement programmes

### TO THE HUMANITARIAN AGENCIES:

- Conduct IDP profiling in urban areas such as Kampala, Jinja, and Entebbe in addition to urban centres in northern Uganda to assess numbers, living conditions, and aspirations
- Introduce the issue of urban IDPs to all clusters
- Create assistance programmes that are sensitive to the relationship between "hosts" and IDPs in urban areas

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See also RLP Working Paper 19 (2006): *Invisibly Displaced People in Adjumani*, which describes the situation of IDPs living with host families outside the formally recognized IDP camps

- Develop guidelines on when displacement is considered to end, with the urban context in mind
- Ensure the inclusion of urban IDPs in assistance and reinsertion programs and their involvement in the development of such plans