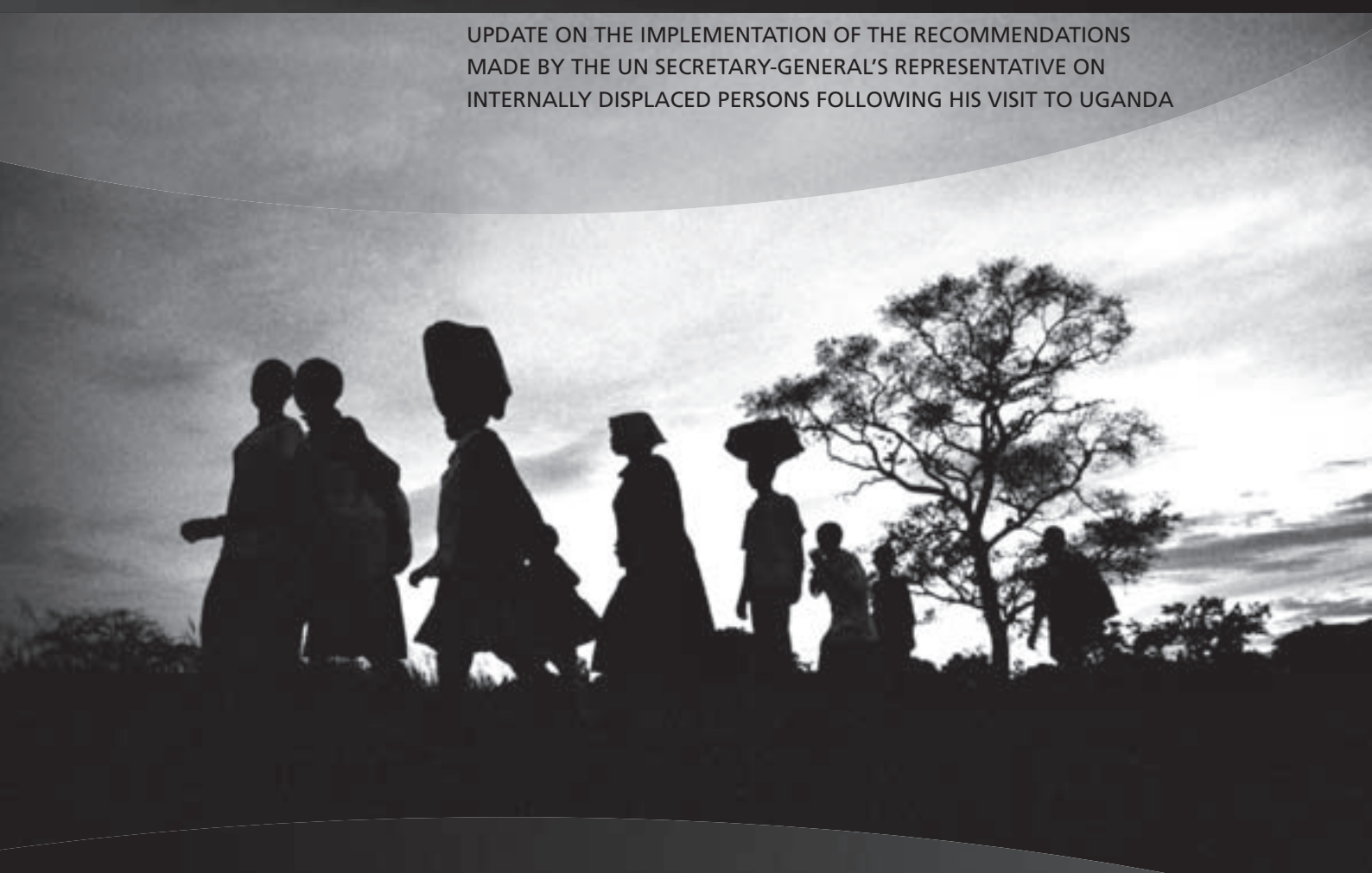


# “ONLY PEACE CAN RESTORE THE CONFIDENCE OF THE DISPLACED”

UPDATE ON THE IMPLEMENTATION OF THE RECOMMENDATIONS  
MADE BY THE UN SECRETARY-GENERAL'S REPRESENTATIVE ON  
INTERNALLY DISPLACED PERSONS FOLLOWING HIS VISIT TO UGANDA



SECOND EDITION, OCTOBER 2006



Refugee Law Project  
Kampala, Uganda



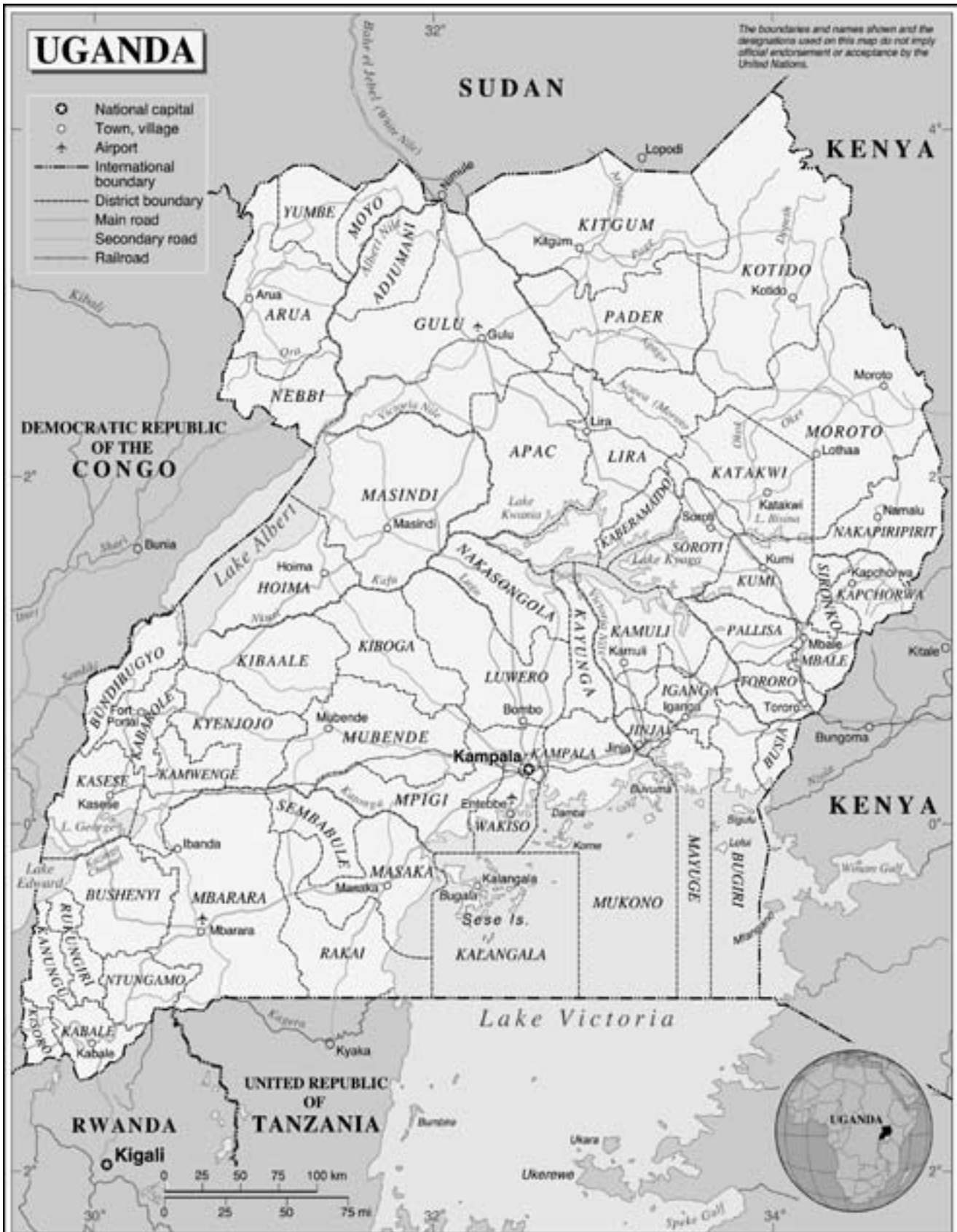
NORWEGIAN  
REFUGEE COUNCIL  
1946 - 2006

**iDMC** internal  
displacement  
monitoring  
centre

# UGANDA

- National capital
- Town, village
- ✦ Airport
- - - International boundary
- - - District boundary
- Main road
- - - Secondary road
- Railroad

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



# **“ONLY PEACE CAN RESTORE THE CONFIDENCE OF THE DISPLACED”**

**Update on the Implementation of the Recommendations  
made by the UN Secretary-General’s Representative on  
Internally Displaced Persons following his visit to Uganda**

**2<sup>nd</sup> EDITION  
OCTOBER 2006**

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# Preface for the 2nd Edition, October 2006

Since the launch of this report in March 2006, events relating to northern Uganda have moved at a sharp pace. There has been increasing international pressure on the Government of Uganda to address ongoing conflict and displacement in northern Uganda, and the UN has stepped up its humanitarian presence in the area considerably and put increasing emphasis on questions of protection. At the same time, the Government of Southern Sudan's interest in a resolution of the conflict in northern Uganda has led them to adopt a mediatory role between the government of Uganda and Lords Resistance Army (LRA).

Both parties have, to date, shown unprecedented commitment to peace talks in Juba, with significant numbers of LRA combatants converging at the two designated assembly points in southern Sudan.<sup>1</sup> In addition, at the time of going to press there were unconfirmed reports that the indicted LRA leader, Joseph Kony, had also reached one of the assembly points, which, if confirmed, would mark a significant development in the search for a peaceful resolution.<sup>2</sup> Overall, the range of people involved in these processes to date, and the level of media coverage, has been qualitatively different from earlier attempts such as the peace talks headed up by Betty Bigombe in 1993/4, the Nairobi Peace Accord of 1999, and the Bigombe Peace Talks of 2004/5. It is also evident that the parameters within which both the LRA and the government are operating have changed significantly, and this should be remembered even if the talks ultimately prove unsuccessful: as such there can be no return to the previous *status quo*.

However, it remains to be seen whether there has been any fundamental shift in the government's position, and the signs so far are not promising. For instance, the cessation of hostilities signed on 26<sup>th</sup> August 2006 suggest a continuation of the government's long-standing carrot and stick approach, which demands that the LRA make certain concessions in exchange for clemency, rather than emphasising a spirit of negotiation and compromise. Indeed, on the 29<sup>th</sup> of August, the first day of the cessation of hostilities, President Museveni was quoted in a daily Ugandan newspaper as saying:

If they [the indicted Lord's Resistance Army leadership] don't respect the [cessation of hostilities] agreement that they and us signed, we are going to hunt them down and catch them because time is not on their side.<sup>3</sup>

In the same triumphalist tone he then declared that the LRA had experienced a 'soft landing' and had been 'defeated militarily', empty rhetoric given the fact that the government's 20 year military campaign against the rebels has not only failed but has contributed to human suffering on a massive scale.

In the light of these developments, the extent to which the IDP policy has been successfully implemented has largely become secondary to ensuring that the peace process between the LRA and the Government of Uganda reaches a successful conclusion – the most important outcome of which, as suggested by the title of this report ("Only Peace Can Restore the Confidence of the Displaced") would lead to a more durable and sustainable solution to the problems of the internally displaced in northern Uganda. Nonetheless, if there *is* a successful outcome to the talks, the process of return, resettlement and reintegration – which in some areas has already begun – will continue to demand close attention in order to ensure that provisions of the national IDP policy are properly implemented and, some might argue, that it is incorporated into national legislation.

<sup>1</sup> See *New Vision*, 18 September, "1604 fighters assembled". This number, if accurate, far exceeds the numbers of LRA fighters previously predicted. For instance in May, UNOCHA's assessment was that there were 450 LRA fighters. (UNOCHA DSS, Minutes of Contact Group Meeting, 3 May 2006. On file with the RLP.)

<sup>2</sup> BBC, 17 September 2006, "Uganda's LRA rebel boss 'emerges'." (<http://news.bbc.co.uk/2/hi/africa/5354348.stm>). The article also refers to the arrival of Vincent Otti, the LRA's second in command, which was first reported on 11 September 2006.

<sup>3</sup> The *New Vision*, 29 August 2006, "Museveni warns LRA on breaking truce".

## I. UN Security Council Resolutions 1653 and 1663

When, in December 2005, the government of Canada and the Secretary General of the United Nations (UNSG) suggested that the UN Security Council (UNSC) seize itself of the situation in northern Uganda, Mr. Adonia Ayebare, the Chargé d'affaires a.i. of the Permanent Mission of Uganda to the United Nations protested the proposal on two grounds: first, that equating the situation in northern Uganda to that in Darfur, Nepal, and the DRC was “unacceptable” since it “masks a politically activist attitude that should be beyond his [the Secretary General’s] office.”<sup>4</sup> And second, that “Uganda is on top of the situation” and therefore “[a]ny international intervention at the tail end of the conflict will not be useful.”

Notwithstanding these reservations expressed by the government of Uganda, the UNSC Resolution 1653 of January 2006 condemned the LRA alongside other rebel forces operating in the Great Lakes region, and called upon the government to renew its commitment to end the conflict and respond to the humanitarian situation. Resolution 1663 of March 2006 called upon the UN’s Secretary-General to continuously appraise himself of, and make recommendations to, the Council about the situation. Elements of a third resolution sponsored by the British government, which calls for the complete disarmament of the LRA by Ugandan, Sudanese and UN forces, have been drafted but not yet tabled, perhaps out of consideration to those who argue that its tabling at this moment in time could jeopardise the nascent peace process.

At the same time, the debate about the challenges posed by the ICC to the current peace process is continuing. There is widespread fear that pursuing the arrests could jeopardise non-violent means to ending the conflict, and could undermine the various traditional dispute resolution mechanisms in place.<sup>5</sup> Recognising this dilemma, Jan Egeland, while remaining mindful of the need for justice, has urged the Security Council to back the peace process rather than seeking to secure the arrests of the rebel leaders at all costs.<sup>6</sup>

## II. Joint Monitoring Mechanism (JMM)

The first response by the Ugandan government to the international pressure that the UNSC resolutions signified was the establishment of a Joint Monitoring Mechanism. This was developed amidst “high-level negotiations and consultative meetings” with the United Nations, and was launched on 24 May 2006 by President Museveni “as an *interim measure* [emphasis added] to coordinate humanitarian interventions in the conflict affected Districts of Northern Uganda”.<sup>7</sup> Under the JMM, a Joint Monitoring Committee (JMC) was established for the implementation of the Emergency Action Plan for Humanitarian Assistance in northern Uganda.<sup>8</sup> The JMC has a Secretariat within the Office of the Prime Minister (Department for Disaster Preparedness and Refugees), to oversee and coordinate the implementation of an Emergency Humanitarian Action Plan (EHAP) in LRA affected areas. Within the JMC there is also a technical sub-committee comprising of experts from both government and non-government organisations. To date there have been three meetings of the JMC each of which has been preceded by a meeting of its technical sub-committee. Decisions of the JMC depend heavily on already over-burdened institutions, such as the Amnesty Commission and Uganda Human Rights Commission, for much of their implementation. After six months (ending December), the JMC will be dissolved and replaced by a Peace, Recovery and Development Plan, currently being developed by the government in consultation with its development partners.

It is encouraging to note that, according to the Emergency Humanitarian Action Plan a holistic human rights protection approach should underlie humanitarian assistance and the provision of security. All ministers whose portfolios are related to the plan are mandated to ensure priority to the situation in the north over the next six

<sup>4</sup> Letter dated 13 December 2005 from the Chargé d'affaires a.i. of the Permanent Mission of Uganda to the United Nations addressed to the President of the Security Council, Gen. 5/2005/785

<sup>5</sup> For more information on traditional mechanisms of justice in northern Uganda and the potential role it could play in any post-conflict phase, see Lucy Hovil and Joanna Quinn, “Peace First, Justice Later: Traditional Justice in Northern Uganda.” Refugee Law Project Working Paper 17, August 2005. It is also important to note that, while the ICC may pose challenges to the current peace process in northern Uganda, this is not to imply that the ICC is not potentially an important mechanism for combating impunity.

<sup>6</sup> BBC, 17 September 2006, “Uganda’s LRA rebel boss ‘emerges’.” <http://news.bbc.co.uk/2/hi/africa/5354348.stm>. Also *New Vision*, 11 September, “UN chief talks with Otti”, in which Egeland is reported to have said, “Those who have been indicted should face justice. But what is more important now is that we should concentrate on ending the war.”

<sup>7</sup> See, invitation to a “Meeting of Technical Officers in Preparation for the Joint Monitoring Committee (JMC) First Meeting”, dated 15 May 2006 from the Permanent Secretary, Office of the Prime Minister to Diplomatic Corps in Uganda, Selected UN agencies the World Bank representative and some NGOs, No: OPM/PD/140/240/6. On file with the RLP.

<sup>8</sup> The full title for the plan is Joint Monitoring Committee: Emergency Action Plan for Humanitarian Intervention in Northern Uganda, May 2006.

months. In addition, there have been plans by the government to construct 100 police posts and to recruit and train 2,000 special police constables for deployment in the northern region.<sup>9</sup> In another development, over 700 war-affected children in northern Uganda (including those born in captivity, former fighters and commanders of the LRA, and formerly abducted children) began education at Laroo Boarding Primary School in Gulu.

Furthermore, as part of its efforts to bolster reconciliation, the government now proposes to compensate war victims. Overall, the government says it has earmarked Shs 58bn (approximately US \$32 million) for compensation payments, of which US \$10 million is to come from the government's own budget and US \$22 million from the donor community. However, such promises should be read in the light of the fact that there remain many outstanding compensation claims from those caught up in the violence that took place when the current NRM government came to power in the 1980s, and the majority of compensation payments to torture victims called for by the Uganda Human Rights Commission have yet to be made. Not surprisingly given its past record, there is considerable cynicism relating both to the government's promises and its ability to actually deliver upon them.<sup>10</sup>

The functioning of the JMC itself is not free of criticism. For instance, in discussions with a number of diplomatic missions in Kampala, and in recent consultations with NGO officials in Gulu, Kitgum and Pader, the legitimacy and transparency of the JMC were questioned. While the Committee identifies different institutions (government ministries and other semi-autonomous institutions such as the Amnesty Commission and the Uganda Human Rights Commission) as responsible for the implementation of the Action Plan, there is ambiguity about the constitutionality of these new roles. In particular, it is doubtful whether Uganda's courts of law can hold any government official accountable should they fail to fulfil their responsibilities under the Emergency Plan (a criticism which can also be applied to the IDP policy).

Some individuals, particularly those working in northern Uganda, asserted that the JMC, like many other government initiatives concerning the north, was developed without consulting the people whose lives it most affects. Indeed there remains a disjuncture in understanding between officials in Kampala and those in northern Uganda regarding the function of the JMC. Furthermore, while the objective of identifying, discussing and monitoring issues related to the Emergency Action Plan and ensuring its timely implementation is sound, the current six month time-frame is unrealistic, in light of its ambitious aims.

### III. Enhanced UN activity

Shortly after the passing of the UN Security Council resolutions, there was a flurry of activity at the UN level, represented particularly by several visits by senior UN officials, and numerous statements made on the situation in Uganda. In April for instance, UN Under-Secretary for Humanitarian Affairs, Jan Egeland, called for a special envoy on the war in northern Uganda stating that such an official would bolster regional action and help to facilitate and coordinate political and military efforts.<sup>11</sup> At the time of writing, such an envoy had not been appointed. More positively, however, by mid-2006 UNHCR's Special Appeal for northern Uganda – with a primary focus on protection – had been fully funded, perhaps an indication of growing international awareness of the magnitude of the problem.<sup>12</sup>

In July 2006, a national workshop on the implementation of Uganda's Policy for the Internally Displaced Persons was organised by The Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, and the Brookings Institution – University of Bern Project on Internal Displacement in close consultation with the United Nations in Uganda. The workshop, hosted by the government of Uganda, included participation from community members and leaders from northern Uganda, as well as representatives from the national government, international organisations and the UN. Frank and substantive discussion and dialogue took place amongst the workshop participants, and the conference did produce a number of recommendations regarding the implementation of the IDP policy, which if implemented,

<sup>9</sup> JMC Emergency Action Plan – LRA Affected Areas, July – December 2006. Republic of Uganda.

<sup>10</sup> See, for example, *New Vision*, 1 September 2006, "Government launches resettlement scheme"; and *The Monitor*, 1 September 2006, "Government budgets Shs623bn for rehabilitating the north."

<sup>11</sup> UNOCHA meeting with CSOs, 31<sup>st</sup> March 2006.

<sup>12</sup> Minutes of Protection Working Group Meeting, Kampala, 28 August 2006.

would enhance the national and international response to the situation in northern Uganda.<sup>13</sup> In this regard, Representative Kálin lauded Uganda’s national policy for internal displacement as excellent, but nonetheless pointed toward the need for special efforts for its implementation.<sup>14</sup>

A number of participants, however, condemned attempts by the international community to appease the government instead of adopting a principled position regarding the humanitarian situation and the implementation of government response plans. For example, they felt there had been an inadequate response to the government’s failure to declare the north a humanitarian disaster. They also expressed concern that the government lacks the political will, and the corresponding economic resources, to implement the Policy. Some at the workshop commented that, just like the IDP Policy itself, the government used the workshop to placate international interests rather than as a forum to address the real situation of the internally displaced. As such the IDP policy follows a wider pattern of extremely cogent and progressive policy documents that are rarely backed by the necessary budgetary allocations to see them through to implementation.

## IV. Uganda as a pilot for the UN’s ‘Cluster Approach’

Over the same period, in what some have referred to as an “internal UN re-profiling,”<sup>15</sup> the UN rolled out the “Cluster Approach” as a means to address gaps in service delivery and to better coordinate and respond to the humanitarian situation in northern Uganda. Under this approach, four clusters (rather than the nine agreed at a global level) have been adopted, including Protection lead by UNHCR; Health and Water and Sanitation both led by UNICEF (note these two clusters have been internationally led by WHO); and Early Recovery led by UNDP. Other clusters, such as Child Protection, SGBV and Camp Coordination, and Management and Administration have been relegated to sub-clusters within the larger Protection Cluster.<sup>16</sup>

While this approach has been welcomed with enthusiasm among some UN staff, as it should streamline coordination of humanitarian assistance and indeed affirms the UN’s role in providing humanitarian assistance, others, particularly those within the non-UN humanitarian sector, have interpreted the clusters as no more than a replication of the District Sector Working Groups, which were already in place prior to the enactment of the National IDP Policy and the introduction of the cluster approach. For them, the clusters are perceived as a rather “UN-centric” bureaucratic impediment to the delivery of humanitarian assistance.<sup>17</sup> Even some UN officials argue that the introduction of the cluster approach has not necessarily resulted in an improvement in the delivery of humanitarian assistance or better coordination. Instead, it has simply created an additional avenue for donors, through the UN, to continue absolving the government of its responsibilities.

## V. The growth in protection activities

With respect to the question of protection, UNHCR launched its protection Cluster strategy for IDPs in northern Uganda in March 2006, with the opening of its first IDP-specific office in Lira, and more recently another office in Gulu District. As lead Protection agency, UNHCR has led the way in developing a protection strategy for northern Uganda, and its operational plans “are guided by the National IDP Policy and the more specific National Internally Displaced Persons Return, Resettlement and Re-integration Strategic Plan for Lango and Teso Sub-Regions of November 2005.”<sup>18</sup> According to UNHCR, a central element of the strategy is the establishment of Inter-Agency Protection Teams in relevant districts, led by UNHCR.<sup>19</sup>

To implement its protection strategy, UNHCR has entered into partnership agreements with local and international NGOs to support delivery of many of its protection responsibilities, particularly camp coordination and camp management. In particular, it has strongly emphasised the need for freedom of movement for IDPs, showing this

<sup>13</sup> Workshop on the Implementation of Uganda’s National Policy for Internally Displaced Persons, Brookings Institution – University of Bern Project on Internal Displacement, 3-4 July 2006.

<sup>14</sup> The full statement is available under: <http://www.reliefweb.int/rw/rwb.nsf/db9005ID/EK0I-6RE3JM?OpenDocument>

<sup>15</sup> Interview with an UN Official, Gulu, 14 August 2006.

<sup>16</sup> The cluster roll-out in Uganda differs significantly from the global clusters both in terms of the number of clusters (four in Uganda, while there are nine clusters at the global level) and in terms of cluster leadership. Instead of WHO, UNICEF is the cluster lead for Health in Uganda, because of a stated lack of capacity on the part of WHO. Questions, therefore, remain as to whether WHO intends to take the cluster leadership role after it has built up its capacity and whether UNICEF is willing to pass this role onto WHO.

<sup>17</sup> See for instance, Uganda Trip Report, Observations, ICVA Coordinator, 17-26 May 2006

<sup>18</sup> Email Communication from UNHCR Staff, 5 August 2006.

<sup>19</sup> *ibid.*



to be critical to all protection activities. According to a UN Official in Gulu, UNHCR was in the process of assessing 16 new sites for occupation by IDPs with a view to identifying the motives for movement from “mother” camps. In general, however, UN officials interviewed in Gulu and Kitgum still criticise the lack of adequate protection structures in northern Uganda. This criticism is evidenced by the absence of assistance and protection mechanisms in sub-counties and remote camps, and in the inadequate provision of services in return sites and transitional areas located outside of camps where IDPs are residing pending the outcome of the peace process.<sup>20</sup>

While restrictions on freedom of movement are in the process of being relaxed by the UDPF – perhaps an indicator of the on-going, though arguably not yet guaranteed, improvement in the security situation – by widening of the security perimeters around a number of camps from the 3 kms reported in March to 6 kms in August 2006, the ability of camp residents to enjoy freedom of movement as envisaged in the national IDP policy and Guiding Principles on Internal Displacement remain constrained. However, significant IDP movement to access land has been reported – referred to variously as the ‘decongestion’ process launched in 2005, ‘population movement’, and ‘return and resettlement of IDPs’.

## VI. Has there been real progress?

It is clear that the growing attention of the UN to the situation in northern Uganda, as reflected in the Security Council resolutions and the increased presence of UN bodies in the field in northern Uganda, signals an important change in the overall context. It is also clear that the Joint Monitoring Mechanism, and the JMC which it provides for, were created in an *ad hoc* attempt to diffuse this growing international pressure. However, it remains questionable whether or not such developments show a genuine interest on the part of the government to address the unacceptable humanitarian situation in northern Uganda. It seems more probable that, with its six-month timeframe for implementation (which is too short to achieve the committee’s stated objectives), it was intended primarily as a holding exercise pending the formation of the Peace, Recovery and Development Plan.

Indeed, the creation of the JMC in some respects only serves to complicate humanitarian interventions: the JMC – which was neither created by Parliament nor passed through Cabinet – has created a parallel structure to the dysfunctional Inter Ministerial Policy Committee (IMPC) provided for under the National IDP Policy, and may in fact face similar limitations, in terms of lack of political will and financial resources, which are further elaborated on in Section 2 of the report below.

Even if it were to prove capable of improving the coordination of humanitarian assistance in northern Uganda, it is not clear to what extent the JMC can contribute to bringing a non-violent end to the conflict and thus to the suffering of the IDPs. In the JMC’s first meeting, the government deferred discussion of the JMC’s most important task – namely cessation of hostilities and regional security – to a limited and presumably more secretive forum. Indeed, it could possibly be argued that discussion of security issues within the JMC – which is a convergence of multiple local and international interests and includes non-governmental actors – could prove diversionary and counter-productive to the on-going Juba Peace Talks (JPT). However, to remove such an integral item from the agenda, dispossess the JMC of one of its core responsibilities.

Moreover, in the first meeting of the JMC, the plan of action that was supposed to be debated was belatedly distributed by the Inter-Agency Technical Committee (IATC) and therefore no meaningful discussion of its content could take place. Indeed, in response to this late delivery of the Action plan, donor representatives present in the meeting requested more time to read the document and consult with their headquarters prior to commenting on its content. By the time of the second JMC meeting (4th August 2006), the IATC was still unable to make a timely delivery of the Action Plans. In an effort to address this, it was decided that the IATC hold preparatory meetings in future.<sup>21</sup> According to some, however, these meetings may only achieve the objective of planning yet another meeting.

<sup>20</sup> Interview with UN Official Gulu, 14 August 2006 and again in Kitgum, 15 August 2006.

<sup>21</sup> See for instance Minutes of the UN OCHA Contact Group Meeting, 9 August 2006. On file with the RLP.

Furthermore, while the current peace process leaves room for cautious optimism, it is important to bear in mind that similar developments have taken place previously in the course of the war's 21-year history and failed. In January 1994 peace was supposedly just around the corner, but when peace talks broke down there was instead a dramatic escalation in the scale of the conflict. In December 1999, following almost a year long lull in the violence, the Carter Centre brokered the Nairobi Peace Accord which, due to the fact that it excluded the LRA, instead unleashed a renewed wave of violence by the LRA. Likewise when in early 2002 the Amnesty process at last appeared to be bearing fruit in terms of LRA returns, the government undermined the process by launching the supposedly conclusive Operation Iron Fist and declaring the war virtually over. The effect was that, by the middle of that same year, the rebels had renewed their attacks with intensity and with a wider geographic reach than ever before: by late 2002 the levels and spread of displacement had doubled, with 1.8 million people displaced across northern and north-eastern Uganda.

Indeed, it is apparent that the ebb and flow of the war – reductions in hostility marking periods of optimism and increased rhetoric about peace talks, soon followed by a renewed intensity in attacks by the LRA and a return by the government of Uganda to its preferred 'military solution' – could persist with relentless tenacity. It is therefore vital that the current peace talks be fully supported in order to finally break this ruthless cycle of violence and conflict. Indeed the Ugandan government, the people of Uganda and the international community at large cannot allow this war to continue.

Specifically, the international community needs to recognise that the continuing contradictions between the different approaches to ending the war – through dialogue or through a military confrontation – have perpetuated conflict in northern Uganda. At the heart of this problem is a lack of government will and commitment to ending the war, and to ending it in such a way as to benefit best the people of the north and, indeed, the whole country. It is clear, therefore, that even if a comprehensive peace accord is achieved with the LRA, it will need to be accompanied by a significant change in the government's position on regional divisions and inequalities that currently exists within the country. It is increasingly apparent that the war is a symptom of a wider crisis in governance reflected in inadequate democratic space throughout Uganda. Unless the issues of north-south divisions and political and economic marginalisation that lie at the heart of the conflict are addressed in any attempts at resolution, ongoing or renewed rebel activity will continue to plague the country's citizens and stunt its growth and development for many more years to come.

With these considerations in mind, the international community must reach a clear consensus on how to consistently and diligently hold the government accountable for its actions. Specifically, it must demonstrate unequivocal support for the current peace process, and maintain pressure on both the government and the LRA to do the same.

## Preface

The recommendations issued by the UN Secretary-General's Representative on the Human Rights of Internally Displaced Persons following his country visits provide useful guidance for governments and other relevant actors with regard to improving their responses to situations of internal displacement. The recommendations, which are part of the mission reports submitted to the UN Commission on Human Rights, address outstanding issues and outline ways of strengthening the protection of the human rights of IDPs in line with the Guiding Principles on Internal Displacement.

To support the process of implementation, the Norwegian Refugee Council's Internal Displacement Monitoring Centre initiated a series of reports on progress made with regard to putting the recommendations into practice. Each report has been prepared in partnership with, and based on field research by, prominent national civil society organisations dealing with issues of internal displacement in their respective countries. This not only ensures that the wealth of information gathered by national non-governmental actors is reflected in the reports, but it also strengthens the involvement of civil society in the process of implementation of the recommendations. In the case of Uganda, the implementation report was prepared in conjunction with the Refugee Law Project (RLP) of Makerere University, which received support to conduct research in Kampala and three conflict-affected districts of the country.

By publishing this series of reports, the Internal Displacement Monitoring Centre aims to raise awareness of the Representative's recommendations, take stock of progress made with regard to their implementation, and point to gaps where further action is needed. It is our hope that the reports will serve as a useful tool for governments as well as for international organisations and national civil society groups to follow up on the Representative's recommendations and develop effective responses to internal displacement that are fully in accordance with the Guiding Principles.

*Elisabeth K. Rasmussen*



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Head of Internal Displacement Monitoring Centre

## LIST OF ABBREVIATIONS

ADF	Allied Democratic Forces
CAO	Chief Administrative Officer
CDMR	Commissioner for Disaster Management and Refugees
CSO	Civil Society Organisation
CSOPNU	Civil Society Organisations for Peace in Northern Uganda
DANIDA	Danish Agency for International Development Assistance
DDMC	District Disaster Management Committee
DDPR	Department of Disaster Preparedness and Refugees
DISO	District Internal Security Organisation
DRC	Democratic Republic of Congo (formerly Zaire)
DSS	Department of Safety and Security
GoU	Government of Uganda
HRPPSC	Human Rights Protection and Promotion Sub-Committee
HURIFO	Human Rights Focus
IATC	Inter-Agency Technical Committee
ICC	International Criminal Court
IDP	Internally Displaced Person
IMPC	Inter-Ministerial Policy Committee
IRC	International Rescue Committee
LAP	Local Administration Police
LC	Local Council(lor)
LDU	Local Defence Unit
LRA	Lord's Resistance Army
NGO	Non-Governmental Organisation
NRC	Norwegian Refugee Council
OHCHR	Office of the High Commissioner for Human Rights
OPM	Office of the Prime Minister
PWG	Protection Working Group
RDC	Resident District Commissioner
RLP	Refugee Law Project
RSG	Representative of the United Nations Secretary-General on Internally Displaced Persons
SCDMC	Sub-County Disaster Management Committee
SGBV	Sexual and Gender Based Violence
SPLA/M	Sudan People's Liberation Army/Movement
UHRC	Uganda Human Rights Commission
Ug Sh	Ugandan Shillings (approximately US\$ 1 = Ug Sh 1,800)
UN	United Nations
UN OCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNRF I/II	Uganda National Rescue Front I/II
UPDF	Uganda People's Defence Forces
WFP	World Food Programme

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# Executive Summary

## Background to the Report

In August 2003, the Representative of the United Nations Secretary-General (RSG) on internally displaced persons (IDPs) undertook an official visit to Uganda in order to “gain a better understanding of the situation of internal displacement in Uganda, with a particular focus on persons displaced by the conflict with the LRA, and to explore ways of enhancing the response of the Government of Uganda, United Nations agencies, NGOs and other actors.”<sup>1</sup> As a result of his visit, the Representative of the Secretary-General presented findings and recommendations to the Commission on Human Rights in March 2004.

The RSG made 26 individual recommendations to three specific groups: the government of Uganda, the United Nations and other humanitarian organisations, and donor governments and political actors. It is intended that the issues raised in this report will, in turn, be taken up by these three same groups in their relevant capacities and mandates. The recommendations fall within six main thematic areas: Resolving the Conflict, the National IDP Policy, IDP Protection, Humanitarian Access, Livelihoods, and Return. This report assesses the extent to which these recommendations have been subsequently implemented. As acknowledged by the RSG, the main focus of his visit and following recommendations relate to those who have been displaced by the conflict between the Lord’s Resistance Army (LRA) and the Government of Uganda, which therefore forms the focus of this study.<sup>2</sup>

Research findings indicate that, while many of those interviewed remembered the RSG’s visit in Uganda, the RSG’s subsequent report had not been widely distributed and, therefore, it is impossible to establish a clear link between the RSG’s recommendations and their implementation (or otherwise). However, the areas highlighted within the report remain of primary significance, and this report therefore seeks to follow up on these recommendations and discern the extent to which changes have taken place, whether positively or negatively. This current report makes further recommendations in light of both the RSG’s report, and recent developments in Uganda.

## Acknowledgments

This report was written by Lucy Hovil and Moses Chrispus Okello of the Refugee Law Project (RLP), Makerere University, Kampala. Field researchers included Moses Chrispus Okello, Joseph Okumu and Sarah Park of the RLP, and Jesse Bernstein of the Internal Displacement Monitoring Centre/Norwegian Refugee Council. The authors are grateful for additional comments from Zachary Lomo and Joel Ng on earlier drafts. The report was commissioned and sponsored by the Internal Displacement Monitoring Centre/Norwegian Refugee Council, which also provided valuable research comments.

## Summary of Main Findings and Recommendations

The war in the north continues, and the human suffering it has generated cannot be ignored. Indeed, rhetoric claiming that the war is almost over is hotly disputed by those who live in the midst of the conflict, or who work with the war-affected population. Therefore all the issues discussed in this report inevitably refer back to the need for resolution of the war, and for this to be the priority in discussions and activities in the conflict-affected areas. In particular, findings show the extent to which there is concern over the way in which the war has been sidelined as a localised rather than a national issue: the marginalisation of the war and, therefore, the north, is both a root cause of the conflict and an ongoing consequence. At the same time, the war threatens to destabilise an already volatile region, with the attempted peace processes in both Sudan and the Democratic Republic of Congo (DRC) under threat.

<sup>1</sup> Paragraph 2, Report of the Representative of the Secretary-General (RSG) on internally-displaced persons, Francis M. Deng, Mission to Uganda, Commission on Human Rights, E/CN.4/2004/77/Add.1, 3 March 2004.

<sup>2</sup> It is important to note that there are also varying levels of displacement in north-eastern Uganda as a result of attacks by cattle raiders mainly from Karamoja. Despite the fact that it falls beyond the reach of this study, the authors are mindful of the fact that the situation in Karamoja is under-researched and has yet to receive the national and international attention that the crisis deserves.

Since the time of the RSG's report a major new development, the launching of *The National Policy for Internally Displaced Persons* (hereafter the 'IDP Policy'), took place in February 2005. Findings show that, while the existence of an IDP Policy is generally perceived to be progressive, there are numerous problems relating to its implementation. In particular, there was widespread recognition of inadequate commitment on the part of the government, evidenced by an apparent deficit in resources and lack of government participation in committees mandated by the policy. As a result, numerous local and international organisations have filled the vacuum, further enabling the government to abdicate from its responsibilities, and ensuring that lack of leadership on the implementation of the policy remains a problem. Furthermore, fears that the policy (in conjunction with decongestion plans) underscores displacement as the status quo need to be taken seriously: without any corresponding agenda for ending the war and creating the conditions for all IDPs to return home, the government appears uncaring at best, and complicit in the continuation of the war at worst.

Despite the best efforts of numerous actors working in the war-affected areas, the findings also demonstrate that the protection of IDPs remains perilous, and that life is a daily struggle for survival. In particular, continued encampment (with resulting limitations on freedom of movement) and the impact of the ongoing war leave the majority of people living in the north unprotected. Women and girls are especially at risk, with chronically high levels of sexual and gender based violence (SGBV) reported. In addition, while night commuting remains a serious concern, the current focus on the phenomenon overshadows the protection needs of other vulnerable groups. Lack of adequate protection is underscored by the fact that institutional oversight for the protection of IDPs' rights remains weak.

Humanitarian access to the IDP camps continues to be both limited and vulnerable to change. Military escorts only provide limited protection for humanitarian agencies attempting to access camps, and are not used by organisations where it contravenes their own policies. While findings show a slight improvement in IDPs' access to livelihood opportunities, their immediate survival needs are still not being met adequately within the camps. At the same time, numerous respondents spoke of the need to balance meeting the immediate survival needs of IDPs, with looking for longer-term alternatives that do not further entrench the current situation of displacement. Thus while the north needs to be recognised as the disaster area that it is, all efforts need to be made to look for long-term alternatives to the current situation of displacement, so that civilians across northern Uganda are able to exercise their social and economic rights. Ultimately, however, only when there is peace can development be sustainable.

Finally, the findings make it clear that current limitations on IDPs' freedom of movement are distorting any discussion regarding the issue of potential return. While acknowledging the security implications of living in a zone of conflict, it is still important that IDPs themselves are allowed to determine when and how they move. Numerous informants pointed to the fact that IDPs are the ones best able to make decisions regarding their own security, and should be enabled to make informed choices and given the freedom of movement to exercise their choice.

In light of the findings, this report makes the following recommendations, grouped together according to the thematic structure of the report:

### **Ending the conflict**

The government must demonstrate a genuine commitment to ending the conflict through peaceful means. It should stop the rhetoric of declaring that the war has ended, and should refrain from using inflammatory language. Instead, it should work towards building trust with the rebels and local communities, as it did with the peace process in West Nile. In addition, the LRA should stop their cowardly acts of attacking and killing innocent civilians and demonstrate a sincere commitment to a peace process. Considering the LRA presence in both the eastern DRC and southern Sudan, the war in northern Uganda is an obvious threat to regional peace and

security, and the UN and international community should take robust action to encourage the government to negotiate with the LRA, with a specific framework for discussion. Finally, the International Criminal Court (ICC) should carefully consider whether its involvement needs to be reviewed in light of the fact that the conflict is still ongoing.<sup>3</sup>

### **National IDP Policy**

In order to ensure proper implementation of the IDP Policy, the central government should provide flexible funding mechanisms in order to facilitate the transfer of funds from the central budget to affected districts. With support from the international community, all District Disaster Management Committees (DDMCs) should receive training in disaster management. In an effort to show its sincerity and commitment to implementing the IDP Policy and addressing the humanitarian crisis, and following a request from Parliament, the Government of Uganda should declare northern Uganda a human disaster area.<sup>4</sup> In addition, the Office of the Prime Minister (OPM) should ensure that all relevant ministries fulfil their roles in implementing the IDP Policy and increase support for its dissemination in relevant languages.

### **Protection**

Although some improvement in protection was noted, continued encampment and the impact of the ongoing war leave the majority of those living in the north highly vulnerable to violations of their rights. Specifically, threats to physical security among IDPs continue to come not only from the rebels, but also from state security agents. Military rules of engagement, according to international standards, need to be introduced and communicated to prevent further unintentional killings of civilians from random encounters with the UPDF. In particular, there is a clear need for increased sensitisation and training for UPDF, police and militias, and for the status and role of Local Defence Units (LDUs) to be clarified. Furthermore, there is an urgent need for the restoration of judicial institutions to ensure greater access to justice, particularly in relation to the exceedingly high levels of SGBV. Finally, freedom of movement for IDPs is critical. While remaining mindful of the need to protect civilians in the context of an ongoing conflict, all obstacles obstructing their ability to move freely should be removed.

### **Humanitarian Access**

Given that warring factions have a legal obligation under international human rights and humanitarian law to refrain from targeting civilians and to ensure safe access for humanitarian workers, emphasis should be on unhindered access to the camps rather than on the use of military escorts. At the same time, infrastructural access to certain conflict-affected areas needs to be improved.

### **Livelihoods**

The day-to-day reality of the ongoing war affects every facet of the lives of civilians, including their access to livelihood opportunities. The need for IDPs to safely access their land is paramount to generating a degree of self-sufficiency. While this is beginning to take place at some level, it continues to be highly limited and variable within and between districts. Furthermore, the issues of livelihoods and security are intrinsically linked: any discussion of livelihoods in a situation of conflict will be only palliative at best, and will not address the underlying issues relating to ending the conflict. In addition, the education needs of an entire generation can not be overlooked: it is imperative that education become a primary focus both in the camps, and in any long-term planning for the eventual return of IDPs to their homes. In this regard, all necessary measures should be taken to introduce emergency education schemes in the camps.

### **Return**

Discussions relating to return currently do not adequately engage IDPs themselves. However, it is critical that they should be central to determining the process of return, and mechanisms are therefore needed to ensure

<sup>3</sup> For more information see CSOPNU briefing paper, *The International Criminal Court investigation in northern Uganda*, February 2005.

<sup>4</sup> Under the Constitution, the government must declare a national disaster in order to take emergency measures to protect and assist affected populations. See Section 2 below.



that their views are taken into account at all stages of the process. At the same time, the government needs to generate the necessary conditions for return, and any plans and actions need to be carefully mediated with the security conditions. In addition, the issue of 'decongestion' has created confusion and raises serious questions with regard to the motivation of the government regarding the long-term status of the land in the north. Thus the UN and international community should be mindful of the political motivations of the government regarding return, and be sure that all measures have been taken to ensure that return is voluntary, and that all actors follow the IDP Policy, including the provision for surveying areas of return for unexploded ordinances.

## Background to the Conflict between the LRA and the Government of Uganda

Since gaining independence, Uganda has suffered from continuing cycles of civil conflict that have, in their wake, generated millions of internally displaced persons.<sup>5</sup> Other factors such as cattle rustling, the creation of national parks, and the recurrence of natural disasters have also forced people from their land. To date, however, the country's most protracted and widespread situation of internal displacement has taken place as a result of the ongoing conflict between the the LRA and the government of Uganda.

While this conflict was initially rooted in a popular rebellion against President Yoweri Museveni's National Resistance Movement (NRM) government, the conflict has become a profoundly violent war in which civilians are the main victims. Over 1.7 million people have been displaced, the majority as a result of the government's counter-insurgency strategy that forced people into so-called 'protected villages'. Tens of thousands more have been killed, raped or abducted. The majority of the LRA force is made up of people abducted against their will, including significant numbers of children. Previous RLP research has demonstrated that, while people living in the north have deep-rooted grievances against the current government, the LRA, led by Joseph Kony, is a poor expression of these and enjoys little popular support amongst the civilian population.<sup>6</sup>

The impact of the war is not restricted to Uganda but is international in its reach. Peace processes in both Sudan and the Democratic Republic of Congo (DRC) are being threatened by the presence of the LRA, which uses both countries for refuge and, in the case of Sudan, as a base from which to launch attacks into Uganda.<sup>7</sup> The recent killings of eight Guatemalan peacekeepers in January during clashes with the LRA in the DRC have reinforced the international dimension of the conflict.<sup>8</sup> The attacks partially led to UN Security Council Resolution 1653,<sup>9</sup> which condemns violence in the Great Lakes region of East Africa and names the LRA as one of three groups highlighted for specific condemnation. At the same time, increased attacks in southern Sudan are undermining an already fragile peace agreement between the Government of Sudan and the Sudan People's Liberation Army/Movement (SPLA/M), obstructing the repatriation of Sudanese refugees in Uganda, and generating ongoing displacement in southern Sudan.<sup>10</sup>

The war that has continued since 1986 has constantly eluded resolution. The government has consistently shown a preference for a military solution to the war, with a number of specific offensives against the LRA.<sup>11</sup> In addition, government-sponsored 'Bow and Arrow' militias in Gulu and Kitgum were formed against the LRA in 1991-2 to disastrous effect: the LRA then began to target civilians specifically, a trend that has continued to date.

The most successful peace initiative to date was launched in 1994, led by then-Minister for the Pacification of the North, Ms. Betty Bigombe. However, despite achieving ceasefires and extensive face-to-face talks with Kony himself, the mission ultimately failed as a result of communication difficulties, alleged vested interests of certain

<sup>5</sup> Since President Museveni took power in 1986, in total 22 known groups have taken up arms to fight the government. See *Amnesty Commission Report 2000 – 2003*.

<sup>6</sup> Hovil and Lomo, RLP Working Paper 11 ([www.refugeelawproject.org/papers/workingpapers/RLP.WP11.pdf](http://www.refugeelawproject.org/papers/workingpapers/RLP.WP11.pdf)), February 2004.

<sup>7</sup> See International Crisis Group, "A Strategy for Ending Northern Uganda's Crisis", *Africa Briefing* No. 35, Kampala/Brussels, 11 January 2006.

<sup>8</sup> BBC, 23 January 2006 (<http://news.bbc.co.uk/2/hi/africa/4639610.stm>).

<sup>9</sup> UN Resolution 1653 (2006).

<sup>10</sup> See ICG, *Briefing* No. 35, Kampala/Brussels, 2006.

<sup>11</sup> These have including 'Operation North' in 1991, 'Operation Iron Fist' in 2002, 'Operation Iron Fist II' which was launched in 2004, and, most recently, 'Operation Stop It'.

high-ranking officers and politicians, Museveni's strict deadline of seven days for negotiations and the LRA's turn to Sudan for weapons re-armament.<sup>12</sup> Currently, Bigombe is again attempting to broker peace between the government and the LRA, as discussed below. The International Criminal Court (ICC) became involved in the conflict in January 2004 when, at the request of the government, it announced its intention to investigate the situation.<sup>13</sup> It has since issued indictments against five senior commanders of the LRA, of whom Dominic Ongwen is reported to have been killed.<sup>14</sup>

Thus, the search for solutions continues and, contrary to public statements made by the government of Uganda claiming that the LRA is a spent force,<sup>15</sup> the war in northern Uganda is far from over.<sup>16</sup> Meanwhile the plight of IDPs in the region has remained largely ignored relative to the scale of the crisis. Indeed, the clichés, which are often used to describe it, such as 'forgotten' or 'hidden', are profoundly true. Although the visit of Jan Egeland, the UN Under-Secretary-General for Humanitarian Affairs, in November 2003 created greater awareness of the humanitarian emergency, the response at both a national and international level continues to be unacceptably sporadic and weak.<sup>17</sup> Meanwhile civilians across the war-affected region continue to live in appalling conditions, caught in the cross-fire of this brutal conflict.

## Methodology

This report is based on field research data collected between 23<sup>rd</sup> October and 5<sup>th</sup> November 2005 in Gulu, Kitgum and Lira districts, with additional interviews in Kampala between October 2005 and February 2006. In total, 151 individual interviews were conducted. The team's planned visit to Pader was cancelled due to the insecurity that resulted following LRA attacks on humanitarian vehicles between 26 October and 8 November 2005. A number of reports on Pader are referred to, but the authors remain mindful of the gap in findings this created.<sup>18</sup> Between June and July 2005, the RLP conducted a similar assessment on IDPs in the Teso region, which forms a complimentary study specific to that region and is referred to in this study where appropriate.<sup>19</sup> Furthermore, an RLP research team visited Adjumani district in January 2006, and the findings from this field trip are referred to in the study.<sup>20</sup>

Interviews were conducted with government officials, UN staff, NGO staff, and IDPs. The research relied primarily on the use of qualitative research methods, allowing informants to speak for themselves through the use of interview maps with broadly defined categories. The approach emphasised the need to allow interviewees the opportunity to express issues which they believed to be significant. The advantage of this flexibility was demonstrated by the fact that the recommendations given by the RSG had had little direct impact on the ground, and so it enabled the focus to quickly shift to the implementation of the IDP Policy. In addition, the report draws upon the plethora of literature and assessments that have emerged on the situation in the north, particularly in the past three years.

The structure of this report reflects the six major themes that emerge from the RSG's recommendations. In section one, it considers the issue of resolving the conflict in the north. The second section assesses Uganda's IDP Policy and the issues surrounding its implementation. Section three analyses issues of IDP protection against the backdrop of the IDP Policy and *Guiding Principles on Internal Displacement*, and in section four, the dynamics of humanitarian access in a conflict environment are explored. The fifth section discusses the area of access to livelihoods, while section six considers the issue of return. At the end of each thematic section, additional recommendations are made.

<sup>12</sup> See Hovil and Lomo, RLP Working Paper No. 11, 2004. ([www.refugeelawproject.org/papers/workingpapers/RLP.WP11.pdf](http://www.refugeelawproject.org/papers/workingpapers/RLP.WP11.pdf)). For additional information, see Barney Afako, "Lessons from Past Peace Initiatives", Monograph commissioned by CSOPNU, November 2002.

<sup>13</sup> The announcement was made on 29 January 2004. The ICC was created in 1998 by an international treaty, the Rome Statute, which came into effect in July 2002. Signed by 120 states, the court was created "to promote the rule of law and ensure that the gravest international crimes do not go unpunished." ("The ICC At a Glance," available from <http://www.icc-cpi.int/ataglance/whatistheicc/history.html>, accessed 10 December 2005.)

<sup>14</sup> *The New Vision*, 8 October 2005, announces both the ICC warrants and the killing of Dominic Ongwen.

<sup>15</sup> A recent release of weekly LRA activities in northern Uganda from June to December 2005 suggests that, despite a gradual reduction in incidents involving the LRA, possibly due to a change of tactics and the dry season, the LRA remain far from defeated. See UN OCHA DSS "Security Briefing", presented at UN OCHA Contact Group Meeting, 8 February 2006.

<sup>16</sup> Moreover, the recent killing of peacekeeping soldiers has reinforced the international dimension of the conflict. See BBC, 23 January 2006, (<http://news.bbc.co.uk/2/hi/africa/4639610.stm>).

<sup>17</sup> As Joyce Neu wrote in a briefing to the US Senate, the situation "bear[s] not just attention, but action." Joyce Neu, "Briefing on the Conflict in Uganda: Hope for a Negotiated Solution", Joan B. Kroc Institute for Peace and Justice, June 2005.

<sup>18</sup> Indeed, the logistical problems of conducting research in Pader are reflected in the analysis below, particularly with reference to the issue of humanitarian access in section 4.

<sup>19</sup> Refugee Law Project, *The Implementation of the National Policy for Internally Displaced Persons in Teso*, Refugee Law Project report commissioned by Coalition for Teso IDP Rights (COTIR) and DANIDA, 2005.

<sup>20</sup> See Okello and Ng, RLP Working Paper 19, forthcoming.

# 1. Resolving the Conflict

## 1.1 Relevant Recommendations from the Representative

*To international donors and political actors:*

(c) Assist in the search for a resolution to the conflict with the LRA.

## 1.2 An Attempted Peace Process

Despite statements made to the contrary, the war in the north continues. Although many informants favoured a combination of strategies to resolve the conflict – military pressure on the LRA, along with the ongoing amnesty process and the involvement of the ICC – there was widespread consensus that the recent initiative by Betty Bigombe to pursue dialogue with the LRA leadership is the most promising approach towards peace. However, although Bigombe has made considerable progress in maintaining contact with certain members of the LRA there are currently few tangible results.<sup>21</sup> Thus, while many of those interviewed showed support for the process in theory, there appears to be doubt as to the real potential for a peace process getting off the ground. Such pessimism was not based on an assumption that negotiations are impossible, however, but more on the fact that specific factors are working against its success. Indeed Bigombe herself has not given up, and currently she is attempting to urge indicted LRA leaders to surrender, and is developing concrete incentives to entice non-indicted members of the LRA to return.<sup>22</sup>

### 1.2.1 Lack of political will

In particular, the lack of consistent support from the government for a peace process was identified as a major stumbling block. The government continues to favour ending the war militarily, an approach that has not only failed for 20 years but has also jeopardised the chance of dialogue with the rebels. Indeed, the government's recent stance that the war is over, and that the army is only conducting mop-up operations, was even more frustrating for many informants. As one NGO worker said, "Museveni says there is no other way than killing Kony, which is potentially undermining efforts to negotiate."<sup>23</sup> Or, as a UN official said, "[Bigombe] doesn't speak on behalf of the government. What we really need are structures working for peace."<sup>24</sup> As a result, the conditions of trust that might allow for a negotiated settlement are absent.

The actions of the government are in stark contrast to the approach used in West Nile to end the armed rebellion by the Uganda National Rescue Front II (UNRF II), where the government successfully brought about a negotiated settlement.<sup>25</sup> As a government official in Gulu said,

*In West Nile there was a lot of confidence-building. There was trust. If both parties can trust one another, if both parties look as equally important, as being part of this nation, I don't see why it should fail. But if it goes to winning, winning...<sup>26</sup>*

Thus the government's lack of tangible commitment to negotiations is hindering significant progress towards a peace process.

### 1.2.2 The involvement of the International Criminal Court

The second factor that has generated some confusion is the involvement of the International Criminal Court (ICC).<sup>27</sup> With the arrest warrants out, it is widely believed that there is now no room for negotiation with those

<sup>21</sup> This was evidenced, for instance, in the recent communication between LRA Commander Vincent Otti and the BBC correspondent in Uganda, Will Ross, in an interview set up by Ms Bigombe, <http://news.bbc.co.uk/2/hi/africa/4483320.stm>, 29 November 2005.

<sup>22</sup> ICG, *Briefing* No. 35, Kampala/Brussels, 2006.

<sup>23</sup> Interview with NGO worker, Kampala, 19 October 2005.

<sup>24</sup> Interview with UN official, Kampala, 20 October 2005.

<sup>25</sup> For more information on the negotiated settlement in West Nile, see Lomo and Hovil, RLP Working Paper No. 12 ([www.refugeelawproject.org/papers/workingpapers/RLP.WP12.pdf](http://www.refugeelawproject.org/papers/workingpapers/RLP.WP12.pdf)), June 2004.

<sup>26</sup> Interview with government official, Gulu, 25 October 2005.

senior commanders who have been identified as the leaders of the LRA – and, therefore, as the ones who would take the lead in any negotiations process from the side of the LRA. Not surprisingly, many people living in northern Uganda would like to see the senior LRA commanders put on trial and made to account for what they have done. From this perspective, many of those interviewed welcomed the issuing of the arrest warrants. The timing of the indictments has nonetheless caused a level of indignation within the region, and numerous respondents were of the view that the arrest warrants will hamper any initiatives to end the conflict peacefully. Moreover, as the interviews also clearly demonstrated, the need for justice to be done in the north is not in question: the question is, how can it be done in such a way as to end the war and allow for sustainable peace? More to the point, how are the senior commanders going to be arrested by a military force that has been unable to end the conflict for over 20 years?

Despite a degree of support for the process, therefore, many interviewees also talked of their fear that the warrants could lead to intensity in attacks by the LRA. Indeed, when a number of attacks on aid vehicles took place during the course of the field research, there was widespread speculation that these were a direct response by the LRA to the recently issued warrants.<sup>28</sup> The attacks exacerbated concern that the ICC does not appear to have secured any form of commitment from the government to increase protection for IDPs now that the arrest warrants are out. As a faith leader in Gulu said with reference to this issue, “You have gone to the beehive and disturbed the bees and the bees are wild.”<sup>29</sup> Likewise a human rights worker noted,

*Things have drastically changed with the issuance of arrest warrants from the ICC. There was a ray of hope with Betty Bigombe. Now the prospects for peace are really bleak. I don't see the LRA surrendering or turning down [their] guns. I don't see government [beating] them. The LRA has been ripped of all its leverage to negotiate. The only way to make headlines is to inflict pain. The only way to send out a message is by killing people. It will give the government a more legitimate reason to go in for combat.<sup>30</sup>*

Thus with no corresponding increase in protection, the warrants are seen as a potentially dangerous approach to pursuing justice while the conflict is ongoing.

While the ICC has only issued warrants for five LRA leaders, the ICC's efforts are largely seen to have wider implications, specifically by undermining the amnesty process, which has received wide support in the north.<sup>31</sup> For instance one Amnesty Commission staff member talked of the fact that the ICC is now able to come and look at their files, and expressed concern over the way in which this was seen as breaking trust with ex-combatants who had filled out amnesty documents: “When [an ex-combatant] comes here he trusts me. He knows that he is safe. But how should I warn him that he is not safe, that the information he is giving me may be turned over to the ICC?”<sup>32</sup> Furthermore, the whole process of seeking justice is undermined by the fact that the ICC has, to date, only focused on crimes committed by the LRA and not those committed by the state's security forces.

### 1.3 The national political dimensions to the conflict

Many of the respondents talked of the need to place discussions on ending the conflict within a national context. In particular, the demand for a more holistic approach to justice was recognised in many interviews: there was general consensus that ending the war is only part of a wider process of regional and national reconciliation that must take place. As one man said,

<sup>27</sup> The involvement of the ICC while the conflict is still ongoing has raised a number of issues, such as the interaction between traditional and international mechanisms of justice, and the sequencing of measures relating to the complete resolution of the conflict. A number of recent reports refer to the involvement of the ICC and engage in this debate. See Human Rights Watch, *Uprooted and Forgotten: Impunity and Human Rights Abuses in Northern Uganda*, September 2005; Liu Institute for Global Issues, Gulu District NGO Forum, and Ker Kwaro Acholi, *Roco Wat I Acoli: Restoring Relationships in Acholi-land: Traditional Approaches to Justice and Reintegration*, September 2005; Institution for Transitional Justice and the Human Rights Center, *Forgotten Voices, A Population-Based Survey on Attitudes about Peace and Justice in Northern Uganda*, University of California, Berkeley, July 2005; and Hovil and Quinn, *Peace First, Justice Later: Traditional Justice in Northern Uganda*, Refugee Law Project Working Paper No. 17, July 2005 ([www.refugeelawproject.org/papers/workingpapers/RLP.WP17.pdf](http://www.refugeelawproject.org/papers/workingpapers/RLP.WP17.pdf)).

<sup>28</sup> Neu, 2006.

<sup>29</sup> Interview with faith leader, Gulu, 27 October 2005.

<sup>30</sup> Interview with human rights worker, Kampala, 12 October 2005.

<sup>31</sup> Uganda's Amnesty Act was passed in 2000 and is extended to all Ugandans, irrespective of age, who have been involved in insurgency through actually participating in combat; collaborating with insurgents; committing other crimes to support insurgency; or in any other way assisting others involved in insurgency (Section 3, Amnesty Act). The Amnesty Commission is the body established by parliament to oversee the amnesty, and is the lead agency in the implementation of the Amnesty Act.

<sup>32</sup> Interview with Amnesty Commission official, Kampala, 11 October 2005.

*I was very happy when the President talked about the national reconciliation and truth commission. Every region needs to narrate their stories. Museveni came and killed so many people here. ... Change should not be through the guns so what happened in Rwanda can be avoided. People are so bitter.<sup>33</sup>*

The desire for national reconciliation reflects prevalent opinion that, contrary to portrayals of the LRA conflict as contained to northern Uganda, it is national in its reach. This was further demonstrated by the fact that several interviewees stated that they did not think the war would end until President Museveni leaves power. In other words, whether or not the LRA itself has a political agenda, there is widespread opinion that the continuation of the war is linked to Museveni's desire to maintain power – whether directly or indirectly. As such, the ongoing nature of the war reflects a wider, national crisis in governance, and any attempts at resolution need to take this into account.

## 1.4 The role of the international community and humanitarian agencies

The current state of confusion over the different approaches and agendas seeking to end the war are underscored by an equally contradictory response from the international community and international humanitarian agencies. Indeed, the international community's failure to hold the government accountable for its inability to end the war, if not collusion in maintaining it, was a recurrent theme throughout interviews. As a local government official said,

*The UN and the international community has done nothing to stop this war... Why this slow intervention or none at all? Darfur is because of oil; DRC, diamonds. The Acholi sub-region is full of sim-sim oil, which is not of priority... ICC has issued the warrant... who is going to arrest Kony? It must be the UN to arrest Kony; it can't be the government of Uganda alone. First stop the war, that should be the priority. Then humanitarian assistance, then reconstruction.<sup>34</sup>*

Or in the words of an NGO worker in Gulu, "We don't hear Americans or British telling the government to stop the war. Instead they have contributed military equipment that falsifies the capacity of our government to win the war. The donor community has been very cautious with our president."<sup>35</sup>

Thus the need to end the conflict remains as acute as ever, and the international community needs to put more pressure on the governments of Uganda and Sudan in this regard. Meanwhile the search for solutions continues to be caught in a quagmire of contradictions and mixed messages: while there is broad consensus on the objectives of attaining peace and reconciliation in the north, opinion continues to be divided as to the best strategy for bringing this about. And while this search continues, hundreds of thousands of civilians are left suffering the daily consequences of being caught in the middle of a brutal war, powerless to stop it.

### Outstanding issues/further recommendations:

Ending the war remains the fundamental issue. The government must demonstrate a genuine commitment to ending the conflict through peaceful means. It should stop the rhetoric of declaring that the war has ended, and should refrain from using inflammatory language. Instead, it should work towards building trust with the rebels and local communities, as it did with the peace process in West Nile. In addition, the LRA should stop their cowardly acts of attacking and killing innocent civilians and demonstrate a sincere commitment to a peace process. Considering the LRA presence in both the eastern DRC and southern Sudan, the war in northern Uganda is an obvious threat to regional peace and security, and the UN and international community should take robust action to encourage the government to negotiate with the LRA, with a specific framework for discussion. Finally, the International Criminal Court (ICC) should carefully consider whether its involvement needs to be reviewed in light of the fact that the conflict is still ongoing.

<sup>33</sup> Interview with religious leader, Gulu, 27 October 2005.

<sup>34</sup> Interview with local government official, Gulu, 25 October 2005.

<sup>35</sup> Interview with NGO worker, Gulu, 26 October 2005. Neu is even more critical, stating that, "the US government sends a message to Museveni to continue the thus-far unsuccessful military option by sending military assistance to Uganda." She further notes that "non-lethal military assistance" amounting to US\$4.9m was given in 2004 alone, according to testimony given to the Congressional Human Rights Caucus in the House of Representatives by Donald Yamamoto, Deputy Assistant Secretary of State for African Affairs, April 14 2005. (Neu, "Briefing," June 2005.)

## 2. The National Policy for Internally Displaced Persons

### 2.1 Relevant Recommendations from the Representative

*To the Government of Uganda:*

(a) To adopt, as a matter of priority, its draft policy on internal displacement and ensure that it is quickly and effectively implemented, including by mobilising needed resources to address the needs of the internally displaced.

*To the UN, international humanitarian and development organisations and partners:*

(a) Make a commitment to support the Government in the implementation of the national policy on internal displacement, once adopted, and continue to support capacity-building efforts directed at national actors.

*To international donors and political actors:*

(b) Urge the Government of Uganda to implement the recommendations noted above, in particular the adoption and implementation of the draft policy and the prioritisation of humanitarian assistance to IDPs within its national resources, to the degree possible.

### 2.2 Principles of the IDP Policy

In his report, Mr. Deng called upon the government of Uganda to “adopt, as a matter of priority, its draft policy on internal displacement and ensure that it is quickly and effectively implemented, including by mobilising needed resources to address the needs of the internally displaced.”<sup>36</sup> Since the recommendations were made, there has been significant progress in the area of a national IDP Policy. In August 2004, Lt. Gen (Rtd) Moses Ali, the First Deputy Prime Minister and Minister for Disaster Preparedness and Refugees signed *The National Policy on Internally Displaced Persons* which was adopted by the cabinet prior to its official launch in February 2005 in Kampala and Gulu.

The IDP Policy was formulated through extensive consultations with government officials, Members of Parliament, UN representatives, and civil society actors. As a result, most respondents found the Policy to be consistent with international humanitarian and human rights law.<sup>37</sup> As will be expounded in Section 3 of this report, the premise of the Policy is to establish a national framework for the protection of IDPs. It explicitly states that IDPs are entitled to equal protection and non-discrimination by the government and, specifically that IDPs have the right to “request and receive protection and humanitarian assistance from national and district authorities.”<sup>38</sup> The Policy also provides a substantive starting point for advocacy, as it represents a written commitment by the government and an endorsed set of standards to which actors can hold the government accountable. Furthermore the Policy is an acknowledgement that many civilians are internally displaced and that the government is responsible for their welfare. It therefore has the potential to bring attention and resources to IDPs, who have thus far been largely ignored and neglected.

<sup>36</sup> Report of the Representative of the Secretary-General on internally-displaced persons, Francis M. Deng, Mission to Uganda, Commission on Human Rights, E/CN.4/2004/77/Add.1.

<sup>37</sup> The *Guiding Principles on Internal Displacement* are recognised as applicable according to the IDP Policy, Cap. 1, “Guiding Principles” of the IDP Policy, and its special importance is recognised in section 5.1.i as a document for widespread dissemination alongside the IDP Policy. Several parts of the IDP Policy are also paraphrases of the Guiding Principles, for example compare 3.5.1 and 3.5.2 of the IDP Policy with Principle 20, paras. 2 and 3 of the Guiding Principles respectively, or 3.6.1 and 3.6.2 of the IDP Policy and Principle 21, paras. 1 and 3 of the Guiding Principles respectively.

<sup>38</sup> IDP Policy, Preamble.

## 2.3 Institutional Structures in the IDP Policy

The Policy provides for the creation of a number of structures and procedures for its implementation. The Office of the Prime Minister, Department of Disaster Preparedness and Refugees (OPM/DDPR) is the lead agency and is to provide coordination for all institutional structures under the IDP Policy.<sup>39</sup> At the national level, two committees – the Inter-Ministerial Policy Committee (IMPC) and the Inter-Agency Technical Committee (IATC) – are tasked with policy formulation and oversight,<sup>40</sup> and with preparing an overall plan for national relief, rehabilitation, and reconstruction respectively. To enhance IDP protection, the Policy also calls for the formation of a Human Rights Promotion and Protection Sub-Committee responsible for monitoring and mitigating human rights violations of IDPs at both national and district levels.<sup>41</sup> At the district level, the IDP Policy necessitates the creation of District Disaster Management Committees (DDMC) charged with formulating a relief plan in the event of forced displacement and providing protection of and assistance to IDPs.<sup>42</sup> Notably, the DDMCs must liaise with the Ministry of Defence and the Ministry of Internal Affairs to ensure security for IDPs, and must prepare for the safe return of IDPs based on voluntary choice.<sup>43</sup> The Policy also makes provisions for Sub-County Disaster Management Committees (SCDMCs) whose role mirrors the DDMC in facilitating IDP protection and assistance at the local level.<sup>44</sup>

The DDMC is to be headed by the Chief Administrative Officer (CAO) of each district and is to include IDP representatives. The Resident District Coordinator (RDC), the UPDF representative, and relevant representatives of humanitarian organisations play key roles in coordination, information gathering and dissemination, and decision-making.<sup>45</sup> When necessary, the Policy provides districts with the option of recruiting a permanent District Disaster Preparedness Coordinator to cover the role of the District Probation and Welfare Officer in the DDMC.<sup>46</sup> In addition, all actors involved in assisting and protecting IDPs are invited to participate in the DDMCs.<sup>47</sup>

The DDMCs are supposed to meet regularly in disaster-affected districts, and are comprised of working groups of all the relevant sectors of local government, which also meet monthly and report to the DDMC. The sector working groups are co-chaired by the heads of departments of line ministries, in partnership with NGOs designated as lead agencies working in each sector.<sup>48</sup> The sector working groups at the district level include water and sanitation, health and nutrition, education, protection, food security, and camp decongestion.<sup>49</sup>

### 2.3.1 Concerns over the functioning of the structures

The structures mandated by the Policy for coordinating the response to IDPs raised significant concerns among respondents. In particular, the lines of communication and coordination between the central committees under the OPM and the DDMC are unclear. Respondents in the districts reported that they had already established structures to coordinate services to the displaced population prior to the launch of the IDP Policy. As one official said,

*In 1995-1996 the DDMC was put in place through a circular of the Prime Minister. Before the Policy we were very firm on the ground. When the Policy came out I only saw how we could improve on protection. We formed the sub-county DDMCs in 19 counties. Some are trying to work. They have orientation and facilitation problems. We had been doing everything from the district. [The SCDMCs] don't know a thing. They've never handled disaster management. You want us to do this work but we don't know what it entails. We need to be facilitated. ... Disaster management is a tricky thing.<sup>50</sup>*

Thus instead of assisting the districts to respond effectively to IDPs, it appears that the new structures imposed by the central government have signified an added burden on already overstretched and under-resourced local government officials. Additional meetings, committees, and reporting responsibilities were seen as detracting from local government's ability to direct their energies to assisting IDPs.

<sup>39</sup> Ibid, section 2.1.

<sup>40</sup> Ibid, sections 2.2.1 and 2.2.2.

<sup>41</sup> Ibid, sections 2.3 and 2.5.

<sup>42</sup> Ibid, section 2.4.

<sup>43</sup> Ibid, section 2.4.1.iii – vii.

<sup>44</sup> Ibid, section 2.5.1.

<sup>45</sup> Ibid, section 2.4.

<sup>46</sup> Ibid, sections 2.4.ii and 2.4.iii.

<sup>47</sup> Ibid, section 2.4.iv.

<sup>48</sup> Specifically, "[t]he DDMC shall be constituted by all relevant heads of Government Departments..." which comprise the sector working groups relevant to disaster preparedness. Ibid, section 2.4.

<sup>49</sup> These are implicitly recognised in the specific provisions from sections 3.8 to 3.17, Ibid.

<sup>50</sup> Interview with government official, Gulu, 24 October 2005.

The findings also demonstrated considerable disparity across districts in terms of the implementation of the Policy, as the effectiveness of the disaster management structures is highly dependent on the capacity and commitment of the district leadership. The DDMC was seen to be most effective in Gulu – where the Assistant CAO and UN OCHA played a strong role in coordinating the DDMC structures – followed by Lira, and Kitgum. In Kitgum, the UPDF and implementing partners had good relations, but several informants talked of poor co-ordination between implementing partners and local government officials, and between some humanitarian agencies and UN OCHA.<sup>51</sup> It was reported at the UN OCHA contact group meeting that the DDMC in Kitgum had not met for five months.<sup>52</sup> In Lira, collaboration among the UPDF, local government, and implementing partners appeared to be the most positive. The success in Lira was due in part to the presence of a DDMC Coordinator facilitated by UNDP who acted as a bridge between partners and the government. There was no active DDMC coordinator in Kitgum or Gulu at the time of the field research.

## 2.4 Reception of the IDP Policy by Stakeholders

Although the majority of those interviewed referred to the IDP Policy as a positive initiative from the government, it is still in the initial stages of implementation and, as a result, respondents were inconclusive about its effectiveness.<sup>53</sup> One government official admitted, “The Policy is still new. OPM is still adjusting.”<sup>54</sup> From the interviews, it was clear that many had adopted a ‘wait and see’ approach: they were willing to work within the structures of the Policy but were apprehensive about the commitment of the actors responsible for its implementation.

There were also some informants who questioned the fundamental assumptions in the Policy. In particular, there were fears that not only had the Policy come in too late, but that it may serve to perpetuate the existence of IDP camps. As a faith leader in Gulu remarked,

*The IDP Policy – you can’t make a policy for the corpses in the graves, in the tombs. You want to cover them so that they don’t smell or what? Let the people go. More people will even die than they would have in the hands of the LRA. The camp is a time bomb. ... I really turn off kind words for this IDP Policy because I don’t accept the concept of IDPs themselves.<sup>55</sup>*

Such attitudes were exacerbated by the fact that, on the whole, local government officials were poorly informed about the structures and responsibilities mandated by the Policy, and most camp commandants, camp management structures and IDPs themselves were unaware of the Policy. This is contrary to the requirement to disseminate the Policy widely in local languages and educate the IDP population about their rights,<sup>56</sup> something that the government is aware of and has acknowledged.<sup>57</sup>

### 2.4.1 Lack of resources; absence of political will

Such attitudes were compounded by a lack of tangible change since the adoption of the Policy. For instance, in the recommendations, Mr. Deng noted that the government had not committed a budget to the implementation of the IDP Policy in its draft form, and this remains the case. The government has acknowledged that the resources needed to implement the policy will be considerable, and is aware that there will be gaps in implementation without such resources.<sup>58</sup> While this acknowledgement is encouraging, the problem of lack of resources remains. Indeed, the final version of the IDP Policy, at a ministerial level, assumes that funds will be forthcoming, which are to be overseen by the IATC.

Locally, the Policy mandates the DDMC to establish a “district disaster management fund”,<sup>59</sup> but at the time of research, none of the three districts had established such a fund. Moreover, it was unclear whether the actual

<sup>51</sup> This is also reflects an underlying problem of lack of resources. For instance, UN OCHA only has two staff members in Kitgum currently.

<sup>52</sup> UN OCHA DSS “Security Briefing”, Contact Group Meeting minutes, 8 February 2006.

<sup>53</sup> For an in-depth analysis on the implementation of the IDP Policy in Teso District, see RLP/DANIDA report, 2005.

<sup>54</sup> Interview with local government official, Gulu, 24 October 2005.

<sup>55</sup> Interview with faith leader, Gulu, 27 October 2005.

<sup>56</sup> IDP Policy, sections 2.3.1.iii, 3.4.2, 3.6.6, 3.11, and particularly 5.1.i. Some NGOs had begun training sessions with IDPs on specific aspects of the Policy, for example, NRC’s programmes on Information, Counselling, and Legal Assistance (ICLA) has educated IDPs on land and property rights and SGBV in Kitgum, Lira, and Gulu.

<sup>57</sup> Office of the Prime Minister, “Operationalising the National Policy for IDPs.” Office of the Prime Minister, Department of Disaster Management and Refugees, Kampala, Uganda, April 2005 (OPM RA 01 Draft).

<sup>58</sup> Ibid.

<sup>59</sup> IDP Policy, section 2.4.1.ix.



resources for the fund should come from local governments' already-strained resources, or from the central government.<sup>60</sup> Thus, respondents cited the lack of resources devoted to the Policy as a serious shortcoming. As a humanitarian agency spokesperson said, "There is a complete lack of resources devoted to [the IDP Policy]. It makes it not a very powerful tool."<sup>61</sup> Furthermore, local governments have been hampered by the recent abolition of graduated tax,<sup>62</sup> which had been their primary source of local revenue. The districts are now almost entirely dependent on funds from central government, most of which are designated for specific development projects making it difficult for local governments to direct funds to meet the emergency needs of IDPs.

Without adequate support from the central government, district officials must raise resources on an ad hoc basis directly from implementing partners. One aid worker complained that, "The budget given to OPM is almost non-existent. ... If you look at the district plan, everybody looks at external [agencies] to come and do something."<sup>63</sup> These agencies nonetheless have their own concerns. One UN official stated, "The government has not allocated resources for DDMCs. Donors are reluctant to give money to it because they say, "We give money to government for it." It has become a vicious circle."<sup>64</sup>

Another NGO worker noted,

*We find [the Policy] to be a starting point. It is not an ideal document. The document simply says so and so is doing that without government putting in money. Where are the resources coming from? It is a tall order for government to say NGOs will do this. First and foremost it is government that should provide for its citizens, but there is no source of funding to implement the IDP Policy.<sup>65</sup>*

These problems are compounded by the perception that the military always receives its budget requisition, while the needs of the civilian population affected by the conflict are neglected. As a human rights officer asserted that, "When you are fighting a war you don't just budget for a war you budget for the people who are going to be affected."<sup>66</sup> As a result, given Uganda's dependency on foreign aid, many stakeholders questioned the government's ownership of the Policy and its suitability to the Ugandan context, and saw the Policy as a tool to appease the donor community.

## 2.4.2 Uncertain leadership

Lack of forthcoming funds is further compounded by inadequate coordination and leadership in the implementation of the Policy. While Mr. Deng recommends to the UN and international organisations to make a commitment to support the government in the implementation of the Policy, and continue to support capacity-building efforts directed at national actors, the IDP Policy states that OPM should be the lead actor in assisting and protecting IDPs and should set guidelines for humanitarian actors.<sup>67</sup> However, on the ground, respondents generally viewed OPM as a weak ministry. The role of the government is seen largely as limited to providing security for IDPs through the UPDF and to posting staff to schools and clinics in the camps (partly due to the lack of funding as discussed above). As a result, and possibly compounding the problem, international organisations have assumed primary responsibility for the provision of humanitarian aid.

However, the role of international actors also remains poorly coordinated. Among UN agencies, UN OCHA has taken the lead in promoting the Policy, while OHCHR has only recently become involved in protection work at the district level. UNICEF's country representative has been acting as head of protection, but where the areas of responsibility coincide, the roles remain unclear.<sup>68</sup> Having said that, it is important to note that in Gulu the protection working group (PWG) has been working efficiently since 2003 with the UHRC as chair.

With significant overlap in areas of protection, the agencies (and sometimes within the agencies themselves) have been unable to reach consensus on their responsibilities. One UN official admitted:

<sup>60</sup> This issue also arose during the RLP study in Teso. See RLP/DANIDA report, section 4.2.

<sup>61</sup> Interview with NGO worker, Kampala, 20 October 2005.

<sup>62</sup> Graduated tax, which is now abolished nationwide, was an annual general tax levied on all men and employed women in the population. See *The Local Governments Act 1997*, Fifth Schedule, section 2.

<sup>63</sup> Interview with NGO worker, Kampala, 17 October 2005.

<sup>64</sup> Interview with UN official, Kampala, 20 October 2005.

<sup>65</sup> Interview with NGO worker, Gulu, 26 October 2005.

<sup>66</sup> Interview with human rights worker, Kampala, 14 October 2005.

<sup>67</sup> IDP Policy, section 2.1.

<sup>68</sup> Interview with UN official, Kampala, 19 October 2005.

*There is no clarity of understanding and no clarity of position. It has taken UNHCR, UNICEF, OCHA a long time to realise the reality of the situation. What must a positive approach be? It is difficult to lead the way when you are still trying to come to a consensus. ... There is lack of unified understanding – lack of unified position between the agencies.<sup>69</sup>*

Such difficulties are compounded by the fact that, to date, there has been no official humanitarian coordinator in place.<sup>70</sup> Presently, three UN Resident/Humanitarian coordinators proposed by the UN have been rejected by the government.<sup>71</sup> It thus remains to be seen how the RC/HC (pending government approval) will work within the new cluster approach which is supposed to be lead by UNHCR. Prior to its mandate expansion, some respondents had suggested that UNHCR should take the lead role in protection and assistance of IDPs because of its experience in dealing with refugee protection – a situation similar to those of IDPs.<sup>72</sup> Thus, UNHCR's expansion of its mandate in Uganda, as a pilot case, to include the protection of IDPs as the lead agency is seen by many as a welcome development.<sup>73</sup> However, a lack of resources for UNHCR to take on its new role for IDPs remains a serious problem.

In addition, some respondents regarded the IDP Policy as ineffective because it was not accompanied by a declaration from the government that northern Uganda is a disaster area.<sup>74</sup> Under the Constitution, the government must declare a national disaster in order to take emergency measures to protect and assist the affected population.<sup>75</sup> However, the government has not only reneged on this duty, it has also maintained its stance that the war in the north is over and that the army has successfully neutralised the rebel threat.<sup>76</sup> At the same time, in much of the north it insists that the military must confine the population in camps for their own security. Because the Policy does not address this contradiction, it is questionable whether it can serve to ameliorate the conditions of the displaced population. This apparent contradiction sends mixed messages on the government's stance regarding internal displacement.

Thus respondents recognised that the Policy has the potential either to improve the situation of IDPs or to validate and entrench the situation of displacement. At the same time, the government and civil society have an uneasy relationship: especially in the districts, partners had some degree of scepticism regarding the Policy and were cautious of raising their expectations because they had become disillusioned by a pattern of unfulfilled promises on the part of the government.

**Outstanding issues/further recommendations:**

Despite a generally positive perception of the IDP Policy, the primary problem rests with implementation. There is inadequate funding for the structures provided for in the policy, and co-ordination and accountability at a district level, and between the district and central government, remain confused. In addition, all DDMCs complained of lack of training in disaster management as well as a lack of resources. To remedy this situation, the central government should provide flexible funding mechanisms in order to facilitate the transfer of funds from the central budget to affected districts. In addition, all DDMCs should receive training in disaster management with support from the international community. In an effort to show its sincerity and commitment to implementing the IDP Policy and addressing the humanitarian crisis, and following a request from Parliament, the Government of Uganda should declare northern Uganda a human disaster area. OPM should ensure that all relevant ministries fulfil their roles in implementing the IDP Policy and increase support for its dissemination.

<sup>69</sup> Interview with UN official, Kitgum, 28 October 2005. This opinion was also shared by another UN official in a follow-up interview in Kampala on 13 February 2006.

<sup>70</sup> UNICEF's country representative is thus currently acting as Humanitarian Coordinator, although proposals for a new Resident/Humanitarian Coordinator began in August 2005. (Interview with UN official, 17 February 2006.)

<sup>71</sup> Ibid.

<sup>72</sup> Interview with humanitarian worker, Kitgum, 28 October 2005.

<sup>73</sup> Interview with UN official, Kampala, 13 February 2006. See also UNHCR, *UNHCR's Engagement within the Inter-Agency Cluster Leadership Approach*, Informal Consultative Meeting, 11 January 2006.

<sup>74</sup> Interview with UN official, Kampala, 20 October 2005.

<sup>75</sup> *The Constitution of Uganda 1995*, Article 46 (1) and (3) state, "(1) An Act of Parliament shall not be taken to contravene the rights and freedoms guaranteed in this Chapter, if that Act authorises the taking of measures that are reasonably justifiable for dealing with a state of emergency. ... (3) Without prejudice to clause (1) of this Article, an Act enacted in accordance with that clause may make provision for the detention of persons where necessary for the purposes of dealing with an emergency."

<sup>76</sup> Indeed, the government rejected a parliamentary motion to the effect that northern Uganda be declared a disaster area, passed on 25 February 2004 ("Motion for resolution parliament on Lord's Resistance Army atrocities").

## 3. Protection

### 3.1 Relevant Recommendations from the Representative

*To the Government of Uganda:*

- (b) To provide physical protection and security for the IDPs by:
  - (i) Assigning adequate military personnel and resources to protect IDPs living in camps;
  - (ii) Monitoring the performance of military personnel and ensure judicial oversight when the rights of the displaced are violated;
- (d) To cooperate actively with the Human Rights Commission of Uganda and to jointly identify ways in which the Commission can play an active role in monitoring the situation of IDPs and assisting in identifying solutions;
- (f) To organise training for the Uganda Peoples Defence Forces (UPDF) in the Guiding Principles on Internal Displacement, International human rights and humanitarian standards and with particular reference to sexual exploitation;
- (g) To implement specific protection measures in the camps against sexual abuse and exploitation, including use of the guidelines issued by the UNHCR entitled *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons*;
- (j) To increase protection of and assistance to night commuters during transit into urban centres and while in urban centres at night, including adequate accommodation.

*To the United Nations, international humanitarian and development organisations and partners*

- (b) Collectively and individually seek to enhance the international humanitarian response to the IDP crisis in Uganda, inter alia through:
  - (i) Strengthening implementing mechanisms for enhanced coordination, assistance and protection;
  - (ii) Establishing, to the degree security allows, more permanent presence in the north.<sup>77</sup>
- (c) Develop and implement targeted child protection activities for IDP children, in particular the children among the 'night commuters'.

### 3.2 Legal Framework

Although there is no specific international instrument relating to internal displacement, IDPs are already entitled to a wide range of rights under international law. A number of relevant international legal instruments are cited in Chapter One of the IDP Policy and, indeed, several key legal norms established by these instruments are incorporated in the substantive provisions of the Policy. The Policy is also in accord with the *Guiding Principles*, and the norms it cites reinforce existing provisions of the Constitution of Uganda related to such basic freedoms as the right to life and freedom from torture and ill treatment.<sup>78</sup> Moreover, Walter Kälin, the current RSG on the human rights of IDPs, has adopted the view that protection should be viewed from a rights perspective and "must not be limited solely to the survival and physical security of IDPs but should cover all guarantees provided by international human rights and humanitarian law."<sup>79</sup>

<sup>77</sup> Although this recommendation falls within the area of protection, increased UN presence in the north is discussed in Section 2.4.2. See above.

<sup>78</sup> According to some respondents, however, the manner and process through which the IDP Policy was instituted is questionable, and effectively circumvents relevant constitutional procedures for enacting law, thereby threatening to undermine the enforceability of the rights it contains. Nevertheless, insofar as Uganda's domestic law and the international instruments it has ratified already address issues relevant to IDP protection, the Policy serves mainly to consolidate the relevant standards and apply them to the Ugandan context rather than create new law. The RLP is currently undertaking a more detailed study of the legal dynamics surrounding this issue. (Forthcoming.)

<sup>79</sup> Kälin, "The Role of the Guiding Principles on Internal Displacement." *FMR IDP Supplement*, October 2005.

Yet despite the safeguards in the Policy, IDPs continue to suffer gross violations of their rights, including protracted confinement in camps, limitations on their freedom of movement, unlawful killings, torture, SGBV, abduction, the destruction of their property and crops and, indeed, one of their most valuable assets – their ability to produce social capital.<sup>80</sup> Furthermore, research indicates that abuses continue to be committed against IDPs not only by the LRA, but also, at times, by the state’s armed agents.<sup>81</sup>

### 3.3 Physical security

As indicated in the RSG’s report, the responsibility to provide physical security for IDPs rests with the government.<sup>82</sup> In the IDP Policy, this duty was adopted by the government and delegated to the UPDF, the Uganda Police Force and other security agencies.<sup>83</sup> The Policy specifically states that the objectives of these agencies are “[t]o ensure security to IDPs and their property through all phases of displacement and the maintenance of law and order in camps or areas inhabited by internally displaced persons.”<sup>84</sup>

Although it was not possible to ascertain the number of UPDF personnel deployed in the camps,<sup>85</sup> there was a general feeling from the respondents that the number of military personnel present in and around the camps had increased in the past two years and that the physical protection of IDPs had been improving. Indeed, while several informants cited numerous incidents in which the military failed to protect, or committed atrocities against civilians, there was a general feeling that these incidents are taking place at a reduced level. Thus, as a government official remarked, “Since Mr. Deng came here I think there has been quite a big change. Security has fairly improved. They [UPDF] intensified military operations against the LRA. The positive attitude from the Sudan government made it possible for the UPDF to pursue the rebels deep inside Sudan.”<sup>86</sup>

In addition, contrary to the RSG’s finding that UPDF detachments were located in the centre of IDP camps, many of those interviewed said that UPDF garrisons are now situated outside the camps and that the UPDF maintains a reasonable patrolling force around camp perimeters comprised primarily of its auxiliary forces. This was confirmed by the UPDF deployment and patrolling plans shown to the researchers.<sup>87</sup>

However, the findings also show divided opinion over whether or not this has led to an improvement in physical protection for IDPs. According to one NGO worker, while improved UPDF deployment is a welcome development, the UPDF is still not strategically placing itself between the IDPs and the LRA, and therefore LRA attacks on the camps continue.<sup>88</sup> Thus it is questionable whether or not there has been any sustained improvement in the security situation and, by extension, the physical protection of IDPs.<sup>89</sup> Furthermore, one interviewee attributed any improvement in security conditions to the UPDF’s heavy reliance on poorly trained and ill-equipped auxiliary forces known as Local Defence Units (LDUs) while reserving career soldiers for more ‘important’ assignments in southern Sudan and elsewhere.<sup>90</sup> Thus, despite the fact that some respondents appreciated the slight change in circumstances, the majority also criticised the quality of the forces deployed for protecting IDPs and their ability to secure the camps.

According to another NGO worker, the security situation continues to be precarious because the UPDF have not clearly defined their roles and responsibilities, and thus have not prioritised IDP protection. Without a specific focus on protecting IDPs – the rationale for creating the camps – rather than on confronting the LRA, the UPDF are unable to limit the capacity of the LRA.<sup>91</sup> Responding to a similar question, another informant painted a grimmer picture of the security situation of IDPs: “security is provided according to political reasons. The more rural you go, the younger the soldiers and the less trained. It would be quite easy to overrun a UPDF detach with just a few soldiers.”<sup>92</sup> Such pessimism was reiterated throughout the research, as informants emphasised the fact that civilians continue to be highly vulnerable to attack.

<sup>80</sup> See for example, earlier studies such as Human Rights Focus (HURIFO), *Between Two Fires*, February 2002, and Christine A. Okot, Isabella Amony, and Gerald Otim, *Suffering in Silence: A Study of Sexual and Gender Based Violence (SGBV) in Pabbo Camp, Gulu District, Northern Uganda*, June 2005.

<sup>81</sup> For example, interview with NGO worker, Gulu, 26 October 2005. See also Diane Paul, January 2006, p. 68.

<sup>82</sup> See RSG’s Report, paras. 3, 28, and 31.

<sup>83</sup> IDP Policy, section 3.1.

<sup>84</sup> *Ibid.*

<sup>85</sup> In every attempt to ascertain the numbers of military personnel deployed to protect IDP camps, researchers were told such information was privileged and that releasing this information would jeopardise the security strategies of the UPDF.

<sup>86</sup> Interview with government official, Gulu, 25 October 2005.

<sup>87</sup> While responding to Mr. Deng’s claims that UPDF detachments are located in the centre of IDP camps, two UPDF officers of different rank separately showed the researchers their deployment plans.

<sup>88</sup> Interview with aid worker, Gulu, 24 October, 2005. See also UN OCHA DSS, “Security Briefing”, 8 February 2006.

<sup>89</sup> According to the minutes of the Protection Working Group meeting held in Gulu (on file with the RLP), the week ending 30 September 2005 indicated that the numbers of incidents involving the LRA went up.

<sup>90</sup> Interview with humanitarian worker, Gulu, 25 October 2005.

<sup>91</sup> Interview with NGO worker, Kampala, 19 October 2005.

<sup>92</sup> Interview with NGO worker, Gulu, 24 October 2005.

### 3.3.1 UPDF Auxiliary Forces

A major concern with regard to the area of military protection was the deployment of LDUs throughout the conflict zone, formed following an increase in LRA attacks in the aftermath of 'Operation Iron Fist' in 2002. In order to respond to the increased levels of violence, the government recruited LDUs, until then a civil force under the police, and encouraged the formation of local militia such as the Amuka and Arrow Boys under the command of the UPDF.

A number of concerns were raised regarding the role of LDUs. First, numerous informants noted that it was difficult to differentiate between regular UPDF soldiers and auxiliary forces and, as such, to determine who was responsible for the protection of IDP camps or, indeed, who was violating the rights of camp residents.<sup>93</sup> As one informant said, "Tribal militia are the ones who are guarding the IDPs with some pockets of UPDF in commanding aspects."<sup>94</sup> Another individual, when asked who was responsible for violating the rights of IDPs, said, "It's a mixed bag. It can be LDUs [or] traditional UPDF."<sup>95</sup> He further stated,

*It became problematic when the government denied responsibility for acts of human rights abuses by LDUs, saying "LDUs are not our responsibility." The high court established that the UPDF is liable because they provide them with guns, etc. That ruling has not been challenged. The LDUs are auxiliary forces.<sup>96</sup>*

Second, and as this statement illustrates, informants also raised the issue of the legitimacy of the LDUs and militia groups. While it was stated by some informants that the LDUs are under the institutional command of the UPDF,<sup>97</sup> others said that responsibility for LDUs and local militia is ambiguous, and therefore their legal status is unclear.<sup>98</sup> This ambiguity was confirmed by the nature of the remuneration of the LDUs: while officers of the UPDF are paid a salary and given field allowances drawn directly from the Ministry of Defence budgets, LDUs and the different militia groups are only paid allowances amounting to Ug Sh 60,000 per month (approximately USD 33) drawn from the Ministry of Internal Affairs and channelled through the Ministry of Defence.

Third, numerous informants expressed concern over the implications of using a force drawn from among IDPs, which is akin to having IDPs protecting themselves. It raises the more complex issue of the militarisation of camps, for instance with off-duty LDUs carrying their guns in the camps.<sup>99</sup> Thus, while the relative improvement in the security situation within the IDP camps is due in large part to the deployment of auxiliary forces, the use of LDUs and local militia for civilian protection is problematic. The insufficient training and lack of proper remuneration and supervision of these forces has led to numerous human rights concerns, and there is growing concern about what will happen to these forces once the conflict is over – will they be incorporated into the national army and police or will they return to civilian life? If they are to return to civilian life, what plans are in place for their demobilisation, disarmament, and reintegration into society?

## 3.4 Oversight for the Violation of the Rights of IDPs

Clearly, the way in which all actors in the north conduct themselves is crucial to the protection of civilians, and the need for monitoring and judicial oversight is critical. The IDP Policy empowers the Commissioner for Disaster Management and Refugees (CDMR), under the OPM/DDPR, to coordinate and supervise all governmental and non-governmental institutions relating to the protection and welfare of IDPs, and to ensure that such institutions fulfil their mandates in an effective and timely fashion.<sup>100</sup> The Policy further states that officials who fail, without reasonable cause, to perform their functions will have breached the IDP Policy and shall be held accountable for their actions and/or omissions.<sup>101</sup>

<sup>93</sup> In the minutes of a Protection Working Group Meeting (on file with RLP) in Gulu, it was noted that meaningful discussions about the UPDF could only take place in reference to the auxiliary forces.

<sup>94</sup> Interview with NGO worker, Kampala, 17 October 2005.

<sup>95</sup> Interview with NGO worker, Gulu, 26 October 2005.

<sup>96</sup> *Ibid*, 26 October 2005. The informant was referring to *David Kironde vs. Mukono District Administration & Attorney General*, HCCS 486/93, 10 August 1995, which holds that, "(1) It is a notorious fact that LDUs are trained and armed by the government. LDUs are an integral part of government machinery for the maintenance of law and order in the country. Therefore, even if there is no statute defining the status of LDUs, they are servants of the government. (2) An LDU's duty is to maintain law and order and his duty involves stopping and interrogating people. That is why the LDU is armed. Therefore even if the act of hitting the plaintiff was wanton and unjustified, it was nevertheless the wrongful way of doing the authorised act. Therefore the Attorney General was liable for the tortuous act of the LDU since the LDU was acting in the course of his employment." *Kampala Law Report*, Vol. 5, 1995, p. 123.

<sup>97</sup> This officer further said that Article 17 of the Constitution of Uganda calls upon Ugandans to defend the nation and to render national service when called upon and that the Commander of the Armed Forces of Uganda is empowered to raise additional forces if the security of the nation is threatened. Article 17(1)(e) of the Constitution states, "It is the duty of every citizen of Uganda ... (e) to defend Uganda and to render national service when necessary." Interview with a UPDF officer, Gulu, 25 October 2005.

<sup>98</sup> Interview with UN official, Kitgum 28 October 2005.

<sup>99</sup> Interview with NGO worker, Kampala, 19 October 2005.

<sup>100</sup> IDP Policy, section 2.1.1 iii and iv.

<sup>101</sup> *Ibid*, section 2.1.1 vii.

The IDP Policy further advocates for the establishment of special institutions for the monitoring of human rights at different levels to complement the ordinary monitoring organs of the government. At the central government level, the Policy mandates the formation of a Human Rights Promotion and Protection Sub-Committee (HRPP) which, in collaboration with the Uganda Human Rights Commission (UHRC), has the duty to monitor the protection of the rights of IDPs and to act as a focal point to which breaches of the implementation of Policy should be submitted.<sup>102</sup> This is replicated at the district level with the establishment of the District Disaster Management Committees (DDMC) which, in liaison with the UHRC, are charged with the responsibility of forming a District Human Rights Promotion and Protection Sub-Committee (DHRPP).<sup>103</sup>

Since the adoption of the National IDP Policy, a number of monitoring organs have been suggested, and in some instances put in place. For example, in addition to the monitoring structures mandated by the IDP Policy, the UHRC has begun an initiative to create Civil-Military Operation Centres. On their part, UN agencies such as OHCHR and NGOs have made efforts to expand and better coordinate their monitoring activities, through UN OCHA Contact Group Meetings and the different Protection Working Groups (PWGs). However, human rights monitoring remains in its infancy. As noted above, in all the three districts visited, the formation of these institutions was at their early development, and OHCHR had only recently established its presence in Gulu district. In many cases UHRC did not have the resources or personnel to respond to the entire northern region, or sustain a presence in the camps. Moreover, there was a marked variation in the presence and performance of monitoring groups within and between the districts. Gulu, for instance, has a functional PWG and, at the time of the research, preparations for the establishment of Civil-Military Operation Centres were in a more advanced stage than in Kitgum and Lira.<sup>104</sup>

In most districts visited, some of the above institutions were yet to be established,<sup>105</sup> and where they were in existence, they did not meet regularly or were understaffed and under-resourced, and therefore unable to send representatives to PWG meetings. As a result, protection activities in the districts were being conducted through structures created by NGOs in response to the degenerating human rights situations in the districts, many of which were, inevitably, ad hoc and limited in their impact.

### 3.4.1 The role of the Police and Judiciary

Of particular concern was the lack of adequate policing and judiciary structures. According to the IDP Policy, the maintenance of general law and order is the responsibility of the Uganda Police Force.<sup>106</sup> Yet in the three districts visited, there was virtually no police force in the camps, and in those camps that did have police, their numbers were very small. In Kitgum, for instance, a police officer told the researchers that in Lobuje IDP camp, one of the few camps that had a police presence, the ratio of police officials to camp residents was approximately 1:6000.<sup>107</sup> In Gulu, only four camps, mainly close to Gulu Municipality, had policemen. In most IDP camps, therefore, police roles have been taken on by paralegals, Local Councillors (LCs), Camp Leaders, Local Administration Police (LAPs), traditional leaders or even the UPDF, who handle cases of human rights violations involving both civilians and armed groups according to their different institutional mandates. In fact, with respect to the UPDF, there was confusion over their role in ensuring that the rights of camp residents were protected. While a top-ranking military officer in Kampala denied the UPDF's involvement in maintaining law and order and insisted that soldiers were only responsible for protecting the camps against the LRA,<sup>108</sup> another military officer in Gulu noted that the UPDF worked in collaboration with the police to handle criminal and civil issues.<sup>109</sup>

Thus, despite the government's commitment to ensure judicial oversight, little has been done to restore the judicial institutions which, like other institutions in northern Uganda, have been devastated by conflict, and are in crisis.<sup>110</sup> Informants therefore refer to lack of access to justice as a serious problem. Indeed, the absence of a resident judge in Gulu, and most of northern Uganda, and the backlog of cases pending before the court are clear indications of the gravity of the situation.<sup>111</sup>

<sup>102</sup> Ibid, section 2.3.

<sup>103</sup> Ibid, section 2.4.1 ii.

<sup>104</sup> Minutes of Protection Working Group Meeting, 27 October 2005 (on file with the RLP).

<sup>105</sup> Ibid.

<sup>106</sup> IDP Policy, section 3.1.

<sup>107</sup> Interview with police officer, Kitgum, 31 October 2005.

<sup>108</sup> Interview with UPDF officer, Kampala, 18 October 2005.

<sup>109</sup> Interview with UPDF officer, Gulu, 25 October 2005.

<sup>110</sup> Interview with UN official, Kampala, 20 October 2005.

<sup>111</sup> Interview with NGO worker, Gulu, 24 October 2005. As of February 2006, there were 18 cases pending before the court, some as old as 2002.

While the presence of magistrates could substitute for the absence of a resident judge, it should be noted that most cases involving human rights violations are decided at a higher level, and therefore can only be dealt with by magistrates courts procedurally, and to a lesser extent, in substance. Given the vacuum created by the absence of properly functioning judicial institutions, local council courts have taken to adjudicating criminal cases.<sup>112</sup> While LCs are mandated in the Local Government Statute to adjudicate in matters of a civil nature, it is not within their powers to procure criminal justice. However, as noted by an informant, LCs are not adequately trained or empowered to be arbiters of justice: “LCs do not know how [the legal process] works, crimes of their jurisdiction, rewards to be given, and they are susceptible to manipulation.”<sup>113</sup>

Moreover, in some cases, the IDPs themselves have taken to managing their own affairs by establishing codes of conduct and bylaws in the camps, and instituting committees to oversee their implementation or negotiating their relationships with security agencies. According to one respondent, “Some camps have bylaws. Padibe in Kitgum compromised with LDUs. Because the LDUs had not been paid over eight months, they negotiated with the communities to report their actions. WFP does not give food to LDUs. In Padibe, the community has a strong network with the military.”<sup>114</sup>

In one IDP camp in Lira, the research team saw a copy of the bylaw used by the camp residents, and talked with some of the individuals responsible for its implementation. There were several indications that these bylaws are not compatible with Uganda’s penal codes and certain aspects of the Constitution, as they provide for arbitrary punishment of offensive behaviour in camps, and in some instances penalise behaviour that is disruptive but certainly not criminal. Clearly, therefore, the restoration of the judicial system is an urgent prerequisite to ensuring judicial oversight of human rights violations of IDPs.

### 3.4.2 Reporting human rights abuses

Research findings further indicate that there is no standard reporting process for human rights abuses. Throughout the interviews, individuals referred to different and sometimes contradictory procedures for, and approaches to, reporting human rights violations. For instance, while admitting that there was insufficient police presence in the camps, a local government official said, “the procedure [for reporting cases] is obvious – go to the police or the LC system, which are working. It is not that there is no administration... There is chance of accountability.”<sup>115</sup> Despite the insistence of this informant, the data clearly indicates that there is ambiguity about reporting procedures. For example, LCs and paralegals use different referral systems. In Lira and Gulu, paralegals hired and trained by the Norwegian Refugee Council’s Information, Counselling and Legal Assistance program (NRC-ICLA), use a standardised referral form which has not been provided to LCs. Other organisations, which do not necessarily have the same level of expertise, are also acting in this capacity.

The UPDF, for its part, has assumed some degree of responsibility for its institutional and individual infractions. According to an army officer in Gulu, the UPDF had, at the time of research, investigated and delivered justice in over 1000 cases of human rights violations involving its officers.<sup>116</sup> In addition, this officer said the UPDF had Human Rights Officers, Public Relations Officers, and Political Commissars, and “field military courts”, all of which handle cases of human rights violations involving the UPDF in one way or another. To many interviewees, however, it was not clear what process the UPDF follows in the event of indiscipline by its soldiers, nor were informants notified of the outcomes of such process.<sup>117</sup> In a conversation with three UN officers in Kitgum, it was noted that the UPDF operates secretly making it nearly impossible to follow a case from beginning to end.

Moreover, the manner in which the UPDF deals with infractions by its members was cause for concern among some respondents. One individual stated that IDPs were unable to report cases of serious human rights violations to the UPDF because of the eminent danger it exposes the victim to, since they will have to enter a military facility to identify their tormentor. Similarly, another respondent said they are reluctant to report cases involving

<sup>112</sup> Interview with police officer, Kitgum, 31 October 2005.

<sup>113</sup> Interview with UN official, Kitgum, 28 October 2005.

<sup>114</sup> Interview with UPDF officer, Gulu, 25 October 2005.

<sup>115</sup> Interview with local government official, Gulu, 26 October 2005.

<sup>116</sup> Interview with UPDF officer, Gulu, 26 October 2005. Note that the researchers were unable to confirm the figure mentioned as there are no proper data maintenance systems in northern Uganda.

<sup>117</sup> Meeting between the researchers and three members of a UN agency, Lira, 3 November 2005.

UPDF officers because the UPDF is not versed in human rights principles. He said,

*UPDF is not transparent at all. It is difficult to get information. I have concerns about how UPDF responds to its violations... It is so serious when a UPDF soldier commits a violation. They execute by firing squad or hanging in Kitgum. ... What that demonstrates is a fundamental misunderstanding to the rest of the world, of the basis and understanding about summary execution. It is a violation of human rights.<sup>118</sup>*

Therefore, there is more need for training of UPDF and auxiliary forces in human rights principles; for transparency and oversight of the UPDF's handling of human rights violations; and for improved communication between the UPDF and the IDP population. Moreover, procedures for reporting, documenting, investigating, and penalising human rights violations need to be standardised and coordinated.

### 3.5 Sexual and Gender Based Violence (SGBV)

One concern that was raised repeatedly throughout the research was that of SGBV. For many women and girls, incidents of SGBV occur while attempting to secure a livelihood, for instance while collecting firewood or water, and are often committed by those responsible for their protection. As reported by an NGO worker,

*When the girls are going to the fields, those in uniform [abuse them]. Even parents feel it is OK if their daughters get to someone in uniform because they can get a cup of beans. We talked with the commanders of the UPDF. They are supposed to be protecting but they are abusing.<sup>119</sup>*

Or in the words of another informant, “What I've observed is parents forcing children to get married to the soldiers. In Nyama camp last year there was a child of 11 or 12 years old living in a soldier's tent as a wife in return for money. She was given as a wife in exchange for food.”<sup>120</sup>

In particular, concerns were raised over the role of the UPDF in committing acts of SGBV. Indeed, in the recommendations the RSG specifically advised the government to organise training for the UPDF with particular reference to protection against sexual exploitation, and to implement certain protection measures in the camps. While there is room for more to be done, research findings suggest that some effort has been made to train the UPDF and its auxiliary forces, the police, and the displaced communities, on human rights and international humanitarian law. According to an officer in Gulu, the UPDF have been trained in the principles of laws of war regarding the protection of civilians during armed conflict, including refraining from incidental or active participation in the abuse of the rights of civilians. An NGO worker noted that Save the Children has been doing workshops for soldiers,<sup>121</sup> and another talked of how their organisation had done capacity-building for police and LDUs on SGBV.<sup>122</sup>

Such training is a positive development, and is evidence of collaboration between the UPDF and civil society organisations. However, a number of challenges remain, in particular the gap between information imparted and actual change in the attitudes of individual soldiers. The fact remains that, throughout the research, numerous accounts of SGBV, including rape, spousal abuse, early marriages, transactional sex, and women and child trafficking were reported to the RLP research team.<sup>123</sup>

Thus many women and girls in northern Uganda are left unprotected in every area of their lives with few alternatives, and the 'protection gap' with respect to girls and women appears to be more serious than other protection issues discussed in this report, for a number of legal, structural, and pragmatic reasons. These include the procedural and substantive requirements for processing cases, the patriarchal nature of society, and the sheer need for survival. Although there is a semblance of accountability in some cases, these factors conspire to distort or derail the course of justice altogether. According to one NGO worker,

<sup>118</sup> Interview with UN official, Kitgum, 28 October 2005.

<sup>119</sup> Interview with NGO worker, Kampala, 17 October 2005.

<sup>120</sup> Interview with NGO worker, Gulu, 25 October 2005.

<sup>121</sup> Interview with NGO worker, Gulu, 25 October, 2005.

<sup>122</sup> Interview with NGO worker, Lira, 5 November, 2005.

<sup>123</sup> One informant said that up to 70% of girls between the ages of 14-17 have been abused. (Interview with government donor/development partner, Kampala, 21 October 2005.) This figure is corroborated by the results of a study commissioned by UNICEF in Pabbo camp, which found that, “girls aged 13 to 17 are most frequently reported as survivors of SGBV” and that this is “followed by women aged 19-36 and children aged 4 to 9. (See Okot, Amony, and Otim, June 2005.) However, it is important to note that the results of this study were contested by the government and some humanitarian organisations, and the researchers of this study were unable to verify the results. Furthermore the manner in which the UPDF are deployed makes it difficult to monitor the impact of any of the training, as soldiers are moved from place to place. (Interview with NGO worker, Lira, 5 November 2005.)



*Gender-based violence has been a very hard problem to tackle. ... Just to prove [a case] alone takes a long time and is agonising to the victim. Eighty to ninety percent of cases are compromised at the community level. To seek justice is very expensive to the victim. At family level between man and woman, pursuing these legal things may lead to breakdown of families. In this part of the world to be married is very important. To remain unmarried for a woman is not preferred. They sacrifice violence to stay in a family.<sup>124</sup>*

Therefore it is clear that, since the RSG's visit, little has changed for the countless numbers of women and girls living in camps: SGBV continues to be perpetrated by armed groups, including members of the government's armed forces, as well as other camp residents, with almost total impunity.

### 3.6 Night Commuting

In the RSG's recommendations, night commuting is referred to as "the most shocking barometer of the perilous security conditions in the north", confirming the opinion of one observer that the phenomena has become a synonym for the conflict itself. While there was agreement among many informants that 'night commuting' remains an on-going concern and is a general indicator of peoples' perceptions of their security,<sup>125</sup> other respondents were apprehensive about the attention given to night commuting. For instance one respondent insisted that night commuting is an "over-resourced" and poorly understood area, and attributed it to a number of 'push' and 'pull' factors: "in Kitgum, bringing [night commuters to centres] is making pull factors. If organisations concentrated on making life better in camps, maybe it would go down."<sup>126</sup> Thus many informants referred to the fact that it is the social conditions in camps, rather than physical security concerns, that are the most significant push factor. As noted by another individual, "If women want to get away from abusive husbands, they night commute."<sup>127</sup> Nonetheless, the challenge remains how to provide protection and assistance to night commuters without making the night commuter centres more attractive than IDPs' homes.<sup>128</sup>

A particular concern raised was the issue of protection for IDPs while they are in transit from the camps to night commuter centres. As a UPDF officer pointed out, it is difficult to provide protection for night commuters while they are in transit since this could serve to separate families.<sup>129</sup> This view was reiterated by a police officer who, while confirming that there are no military escorts for night commuters, nevertheless said that commuters benefit from police and UPDF patrols where they exist. According to this officer, abuses occur because some children are unable to reach the night commuter centres before nightfall.

*Sometimes we found that children are not where they are required, ending up in defilement. Sometimes the blame is on the parents – they do not escort them. Sometimes they go for sexual work, which is where defilement comes from. We only protect those who go to the right place.<sup>130</sup>*

Overall, however, the numbers of night commuters are decreasing. For instance, between May and November 2005, numbers in Gulu dropped from approximately 14,000 to just under 8,000.<sup>131</sup> In Lira, one respondent said there are no night commuters at all; instead, protection issues arise with respect to street children, who are being trafficked by unscrupulous people.<sup>132</sup> In addition, some camps in Lira, such as Starch Factory, are located close to the towns, and are therefore generating numbers of street children. Indeed there was a general opinion that many camps in Lira are fast developing into urban shanty towns.

Thus the research findings indicate that the dire social and humanitarian conditions in the camps have made night commuting an 'attractive' alternative for children as well as adults to escape cramped and unsanitary living conditions, and abusive and chaotic homes. The resulting break-up of families and the erosion of cultural and moral norms is cause for concern. Moreover, the night commuter phenomenon is a clear indication of the extent to which the encampment policy has failed to provide physical security for IDPs: it has generated a host

<sup>124</sup> Interview with NGO worker, Gulu, 26 October 2005.

<sup>125</sup> Meeting between the researchers and three members of a UN agency, Lira, 3 November 2005. Another informant said, "On protection, the night commuter issue is an indicator of no protection. There is no need to protect night commuters if you can not protect the camps." (Interview with NGO worker, 24 October 2005.)

<sup>126</sup> Interview with NGO worker, Kampala, 20 October 2005.

<sup>127</sup> Interview with NGO worker, Kampala, 19 October 2005.

<sup>128</sup> Ibid.

<sup>129</sup> Interview with UPDF officer, Kampala, 18 October 2005.

<sup>130</sup> Interview with police officer, Kitgum, 31 October 2005.

<sup>131</sup> UNICEF, *Gulu Night Commuters Data Bank*, December 2005.

<sup>132</sup> See Diane Paul, *Fulfilling the Forgotten Promise: The Protection of Civilians in Northern Uganda*, report for Interaction Protection Working Group, Northern Uganda Protection Mission, January 2006, in which she documents this taking place in Lira.

of human rights and humanitarian concerns from which IDPs have been forced to flee, creating a pattern of secondary forced displacement which is likely to have serious long-term implications in relation to the broader social context of the conflict.

### 3.7 Freedom of Movement

Underlying many of the protection issues raised above is the issue of restrictions on freedom of movement. Under both domestic and international law, freedom of movement is a basic right which can only be suspended or otherwise restricted in the case of a declared emergency in accordance with stipulated provisions of existing law.<sup>133</sup> As with other issues raised in the RSG's report, constraints on freedom of movement are a direct consequence of insecurity in northern Uganda and, in turn, engender further violations of the rights of IDPs. Interestingly, the RSG's report raises the subject twice, in discussion on the IDP Policy and in reference to its impact on humanitarian assistance. Likewise during the course of field research, a number of respondents cited the lack of freedom of movement as a particular area of concern.

However, there was also acknowledgement of the need to maintain a careful balance between the obligation to protect the rights of IDPs, including the right to move freely, and the duty to protect their physical security in the context of an ongoing conflict and an undeclared emergency situation. On the one hand, security and government officials saw limitations on movement as necessary given the situation of conflict. According to a government official in Kitgum,

*There are no restrictions on freedom of movement except they [IDPs] can't move beyond two kilometres [outside camp perimeters]. Beyond that, government is not responsible for your security. The only restriction on the movement is the timing. From 9:00 a.m. to 4:00 p.m., we deploy. The soldiers have to be redeployed at night to seal the camps.<sup>134</sup>*

This stance was echoed by another government officer who expressed frustration about criticisms that IDPs' freedom of movement was restricted: "The international community is saying there is restriction, but they don't understand. In Koc Goma IDP camp someone left early and landed in the hands of rebels. How do you protect?"<sup>135</sup>

On the other hand, many informants expressed concern over such restrictions. While recognising that the issue of freedom of movement is indeed a 'catch-22', some informants argued that restricting IDPs' ability to move freely is illegal, much the same way as the encampment policy is a violation of their right not to be displaced. As a staff member of a UN agency said, restrictions on freedom of movement are constitutionally unacceptable and can only be justified once northern Uganda is declared a disaster area: "If they are going to restrict movement then declare a disaster area."<sup>136</sup>

Even though restrictions on movement remain contentious, some informants noted that IDPs' ability to move in and out of the camps has improved.<sup>137</sup> Moreover, restrictions on movement are not applied uniformly in all the northern Uganda districts (and indeed all the camps) and thus there is greater freedom in some areas than others. According to a UN staff member in Lira, for example, 60% of the population staying around the centre of the district have access to their homes.<sup>138</sup> In Kitgum and Gulu, those living in camps closer to the towns generally experience greater freedom than those in more remote camps. In Adjumani, self-settling policies allowed a de facto freedom of movement among IDPs and daytime return to farms.<sup>139</sup>

Thus, while the legal basis for the government's restriction on freedom of movement of IDPs is unsound, the issue of freedom of movement in a context of ongoing conflict is complicated. In particular, the dilemma faced by the security forces needs to be acknowledged: the UPDF is held responsible for attacks on civilians and is

<sup>133</sup> IDP Policy, sections 3.1 and 3.2.

<sup>134</sup> Interview with government official, Kitgum, 28 October 2005.

<sup>135</sup> Interview with government official, Gulu, 26 October 2005.

<sup>136</sup> Interview with UN official, Kitgum, 28 October 2005.

<sup>137</sup> Interview with NGO worker, Gulu, 24 October 2005.

<sup>138</sup> Interview with UN official, Lira, 1 November 2005.

<sup>139</sup> For further information regarding the situation in Adjumani, see Okello and Ng, RLP Working Paper No. 19, forthcoming.

therefore reticent to allow greater movement between the camps and IDPs' homes. However, an acceptable compromise must be made that enables IDPs and the UPDF to work in collaboration, such that IDPs make their own decisions about movement based on an informed assessment of security risks, and the UPDF is able to effectively regulate IDP movement to ensure their protection.

**Outstanding issues/further recommendations:**

Although some improvement in protection was noted, continued encampment (and resulting limitations on freedom of movement) and the impact of the ongoing war leave the majority of those living in the north highly vulnerable to violations of their rights. Specifically, threats to physical security among IDPs continue to come not only from the rebels, but also from government security agencies. Military rules of engagement, according to international standards, need to be introduced and inculcated to prevent further unintentional killings of civilians from random encounters with the UPDF. There is a clear need for increased sensitisation and training for UPDF, police and militias, and for the status and role of LDUs to be clarified. Furthermore, there is an urgent need for the restoration of judicial institutions to ensure greater access to justice, particularly in relation to the exceedingly high levels of SGBV. Finally, freedom of movement for IDPs is critical. While remaining mindful of the need to protect civilians in a conflict situation, all obstacles obstructing their ability to move freely should be removed.

## 4. Humanitarian Access

### 4.1 Relevant Recommendations from the Representative

To the government of Uganda:

- (c) To ensure IDPs' access to humanitarian assistance by:
  - (i) Prioritising the provision of such assistance from the Government's own resources to the degree possible.
  - (ii) Providing adequate security for humanitarian personnel and material to allow access to IDPs.

### 4.2 Access to the Camps

During the first part of the field research, there was general consensus that access to IDPs by humanitarian actors had improved, although many aid agencies opted to use military escorts when travelling to and from camps. However, the attacks on aid vehicles that took place in October 2005, during the field research significantly changed people's opinions on the subject.<sup>140</sup> Therefore, the data collected can effectively be split into two categories: the relative optimism before the attacks, and the uncertainty, frustration, and pessimism generated by the sudden restriction in movement after the attacks. While neither opinion is 'wrong', they demonstrate the extent to which access to IDPs is dependent on the security situation and the constantly evolving nature of events in northern Uganda generally. As a result, the following discussion on humanitarian access is mindful of the fact that the situation is in a constant state of flux, which only emphasises the vulnerability of IDPs who, for as long as they live in camps, are unable to provide for their own needs.

Data collected suggests that the government is now showing greater commitment to provide access to IDPs. The government, as noted above, has continued to provide agencies with escorts free of charge and no longer allows agencies to directly pay soldiers.<sup>141</sup> As one respondent said, "Humanitarian access is improving more and more. Most camps in Gulu are accessible without escorts. In Kitgum and Pader, you have to use escorts... Food distribution is equal in all camps."<sup>142</sup>

Moreover, according to a UPDF officer,

*People can go anywhere without escorts. In fact escorts [are the] idea of NGOs. In Adjumani, people insisted on moving with escorts. For that reason, UPDF introduced convoys, so let people use them. Let people move in convoy.*<sup>143</sup>

The use of convoys, however, was not seen to guarantee security, something that has been particularly true of Pader district, as evidenced by the fact that the research team were unable to visit due to insecurity. According to one NGO worker, "We use them as a deterrent but we might find ourselves in the wrong place at the wrong time."<sup>144</sup> The issue of convoys thus remains contentious: they both deter and attract hostility from the LRA. Some agencies do not use them at all as they want to maintain their neutrality; others have to make budgetary considerations and thus use escorts only for vital operations.<sup>145</sup> Moreover, the very fact that convoys are being used indicates that humanitarian access is not free.

In addition, regular provision of humanitarian assistance is dependent on the location of camps: the camps located near towns are safer and were, at the time of the research, accessible without escorts, while those further away are less accessible.<sup>146</sup> Thus, there was a vast discrepancy in attitudes towards the use of military escorts, creating tension between agencies operating in the districts, and the government.<sup>147</sup>

<sup>140</sup> For instance, an NGO worker in Kitgum stated, "Three attacks on NGOs in the last week and now we are grounded so access is a huge problem because if attacks happen again, we need to have a huge discussion. I don't know if agencies can operate anymore... what is essential, what is non-essential." (29 October 2005.)

<sup>141</sup> NGOs have adopted the practice of providing water and biscuits to their military escorts.

<sup>142</sup> Interview with NGO worker, Gulu, 24 October 2005.

<sup>143</sup> Interview with UPDF officer, Gulu, 26 October 2005.

<sup>144</sup> Interview with NGO worker, Kitgum, 29 October 2005.

<sup>145</sup> Interview with aid worker, Gulu, 25 October 2005.

<sup>146</sup> Interview with NGO worker, Kitgum, 29 October 2005.

<sup>147</sup> For instance, one informant said with reference to the fact that a MSF vehicle was attacked without an escort, "Six months ago an MSF vehicle was attacked and looted. The local authorities blamed them, labelled them rebel collaborators. The authorities were unkind and unwise to blame them," (Interview with legal aid officer, Gulu, 26 October 2005).

### 4.3 Humanitarian responsibility

The issue of access is one that reflects many of the dilemmas facing humanitarian organisations working within northern Uganda. While it is true that more organisations have flocked to northern Uganda since the visit of Jan Egeland in 2003, interviews with different actors reveal a degree of scepticism about their performance. In particular, collaboration with the government has remained a challenge and, at times, has hampered their activities.

There was widespread opinion that international organisations, like the government itself, have placed too much emphasis on approaching the problem from a developmental rather than an emergency perspective. Understandably, addressing the plight of IDPs using a development model may pay some long-term dividends, especially because it is consistent with the goal of finding a durable solution to internal displacement and since a large proportion of the general population in Uganda possess characteristics similar to those of IDPs. However, according to a UN staff worker,

*This country is schizophrenic in terms of development. The UN mirrors this. In other parts of the country it [the U.N] is in an emergency mode, in others it is in a development mode. It is quite difficult to balance. Uganda can be a case study. Uganda has been a golden baby of the donors for the last twenty years and now they are suddenly discovering that there are two million people in Uganda living in camps.<sup>148</sup>*

Thus the primary criticism of the UN and donor organisations is that they have for too long focused on development rather than emphasising the need for an emergency response, and therefore it has been difficult to attract funding for the latter. Although there has been some improvement since the time of Mr. Deng's visit, the overall impression was of a situation that is not taken seriously and in which not enough is being done.<sup>149</sup> And, of the little that has been done to address the emergency needs of the IDP population, serious questions have been raised about whether it will be sustainable. As an NGO worker commented,

*People have survived simply because NGOs are there and have provided food, water, constructed classrooms, trained so many people. But how long are we going to keep people eating UN food?<sup>150</sup>*

At the same time, numerous informants referred to the fact that the international community needs to be more persistent in speaking out clearly on issues surrounding the ongoing war. As one informant suggested, "NGOs should become more bold and do what they feel they really want to do, become more practical, be agents of social change, reject the negative influence from powers that be and stand for justice."<sup>151</sup> Informants also referred to the challenges of working in the context of northern Uganda: the governmental authorities respond antagonistically to criticism, yet agencies have to advocate for change and at the same time maintain a cordial working relationship. Despite the reality of these dilemmas and tensions, however, it is crucial that that international actors recognise the role they can play in putting pressure on the government to better protect its citizens and, ultimately, to end the war.

#### **Outstanding issues/further recommendations:**

Access to the IDP camps continues to be limited, and underscores the vulnerability of the displaced. Given that both government and rebels have a legal obligation under international human rights and humanitarian law to ensure safe access, emphasis should be on unhindered access to the camps rather than on the use of military escorts. In addition, infrastructural access to certain conflict-affected areas needs to be improved.

<sup>148</sup> Interview with UN official, Kampala, 20 October 2005.

<sup>149</sup> Interview with UN official, Kampala, 21 October 2005.

<sup>150</sup> Interview with NGO worker, Gulu, 26 October 2005.

<sup>151</sup> Interview with NGO worker, Kampala, 12 October 2005.

## 5. Livelihoods

### 5.1 Relevant Recommendations from the Representative

*To the government of Uganda:*

(h) To facilitate safe access by IDPs to fertile land on the perimeter of the camps, including through the provision of adequate government protection for IDPs to farm on the outskirts of camps during the day.

(i) To give priority and support to ensuring education children in camps;

*To the UN, international humanitarian and development organisations and partners:*

(b) Collectively and individually seek to enhance the international humanitarian response to the IDP crisis in Uganda, inter alia through:

(iii) Expanding, in consultation with the Government, its involvement in northern IDP camps to include not only immediate survival needs but also needs for education and livelihood generation.

(iv) Developing a strategy to assist IDPs to become more self-sufficient in food production.

### 5.2 Access to Land

The extent to which the situation in the north falls within an emergency paradigm is driven, in part, by the simple fact that the majority of those living in the north are unable to feed and support themselves. Given the predominantly agrarian nature of livelihoods in northern Uganda, access to land is the single most important factor in allowing civilians in the region to generate their own livelihoods. As one NGO worker said, “People believe very strongly in one resource and that is the land.”<sup>152</sup> However, during the course of the war in the north, and particularly since the government instituted its policy of forced displacement within the conflict zone, civilians have been highly dependent on external assistance: by the very nature of being confined to camps and of living in cramped conditions, IDPs have been largely unable to generate their own food. Even among those with access to land, their ability to store grain for future consumption is hampered by insecurity and lack of resources for construction of granaries.<sup>153</sup> Furthermore, displaced persons have had only limited access to their land even during periods when the fighting has reduced due to the government’s counter-insurgency strategy, which treats anyone outside of the allocated perimeters of the camps or towns as a rebel collaborator.

There has been a degree of improvement in the situation since the RSG’s visit, as IDPs in some areas are now able to move within a radius of two kilometres from the camps and farm the land. According to a government official in Gulu, at the time of the research, 26% of food needs were being produced by IDPs within the district, with 74% provided by WFP.<sup>154</sup> If this is the case, then it marks an improvement from the total dependency of the past few years. Indeed, there was a keen awareness of the extent to which IDPs have become highly dependent on external assistance, and the need to improve self-sufficiency.<sup>155</sup> As a UN official noted that “There is now talk of how IDPs are going to cater more for their own food needs.”<sup>156</sup>

However, the extent to which cultivation is taking place is highly precarious and is dependent on a number of factors. First, access to land is varied, and is specific to each district: for instance, there appears to be more agricultural activity in the areas around the main roads, and less in remote areas.<sup>157</sup> Second, access to land outside of the camps is limited by the government’s curfews: at the time of the research, IDPs had to return to their camps

<sup>152</sup> Interview with NGO worker, Gulu, 25 October 2005.

<sup>153</sup> See for instance, Stuart Katwiririze, *Understanding Resettlement Capacities and Vulnerabilities of Displaced Male and Female Headed Households: A Case of Three Camps in Northern Uganda*, Cranfield Disaster Management Centre report for World Vision, December 2001, pp. 24-25.

<sup>154</sup> Interview with government official, Gulu, 25 October 2005. According to latest WFP statistics, “WFP reduced IDPs’ food rations to 60% in Gulu in January 2006 for camps that were on 74% ration and maintained 50% for those already at that rate, mostly the newly recognised camps. A further reduction will be effected in March, piloted for two months for all camps, based on criteria agreed upon by the WFP Vulnerability Assessment and Mapping (VAM) unit and the food security sector working group. The criteria used included land access, security, camp population density, household numbers, camp clusters (to avoid drifts, closer camps were given similar rations) and the ICRC vulnerability checks. The extremely vulnerable individuals (EVIs) will, however, remain on 98% ration.” UNOCHA, Uganda Humanitarian Situation Report, No. 4/06, 16 – 28 February 2006.

<sup>155</sup> For example, the DDMC meeting, Adjumani, 26 January 2006 had dependency issues on its agenda, and was tabled for further discussion at the following meeting (minutes on file with RLP). In addition, interviews with IDPs suggest that the way in which food is distributed is generating domestic disputes, an area that is explored in RLP Working Paper 19, (forthcoming).

<sup>156</sup> Interview with UN official, Kampala, 21 October 2005

<sup>157</sup> Interview with NGO worker, Kitgum, 29 October 2005.

by 4 p.m. and could not leave until 9:30 the next morning.<sup>158</sup> Third, access is dependent on the provision of LDUs to protect the IDPs.<sup>159</sup> Finally, lack of seeds, tools, and fertilisers also hinders productivity, and for those IDPs who are not within easy access of their home areas, there is the additional cost of having to rent land.<sup>160</sup> In particular, those who belong to specific vulnerable groups, such as those with HIV/AIDS or the disabled, have additional difficulties in accessing land (or providing for their own livelihoods).<sup>161</sup> An additional problem identified by many of the IDPs interviewed was that crops are regularly stolen either by rebels or UPDF/LDUs, although the identity of those taking the crops was not always known.<sup>162</sup> Thus access to land and, therefore, to livelihoods, is both an economic and a security issue, and both dimensions need to be addressed if the quality of life for IDPs is to improve.

A number of NGO initiatives appear to be taking place to encourage IDPs to farm the land around the camps. In particular, there was mention of growing cotton and other non-food cash crops that might be less desirable for the rebels to steal.<sup>163</sup> For instance, one government official talked of some of the initiatives currently underway:

*There is an initiative by the Department of Agriculture to train farmers on intensive farming, growing vegetables on sacks filled with soil. There are some NGOs who are doing this strategy of distributing early-maturing crops, which are high-yielding. Farmer-to-farmer seed multiplication project, expanding the production of oil crops. ... NUSAF has been instrumental in talking to communities to come up with projects ... poultry, livestock, and land opening. There were over 130,000 heads of cattle before 1986. There are 6-12,000 animals now.<sup>164</sup>*

However, there is considerable debate as to the efficacy of growing cash crops in place of food crops: there was concern that it was not an advisable use of what is exhausted land, and, furthermore, that the IDPs could become a captive labour reserve. That is not to say that cash crop initiatives are inherently wrong, but simply that careful understanding of IDPs' own priorities is vital to any such initiatives.

Thus despite some improvement in access to land, the majority of IDPs continue to be confined to the camps, unable to generate their own food. At the same time, there are few other alternative forms of livelihoods available, generating an atmosphere of hopelessness and dependency. IDPs continue to live in chronic conditions and are heavily dependent on external assistance, with little prospect of change as long as the war continues. As a woman living in an IDP camp in Lira said,

*My husband just stays. ... He does nothing. There is nothing for the family to eat. ... Sometimes I go to town to look for slaughtered heads of the chickens from the hotels and cook for the children and they eat. At times I go out to look for digging. At times there are some rich people in town. They come here and pick him for working. After paying him he gets some potatoes, cassava, and brings for the family.<sup>165</sup>*

### 5.3 Education in Camps

The area of education continues to be highly neglected and misunderstood. Contrary to a recent report commissioned by the Office of the Prime Minister, which talks of education as one of the few positive experiences of the camps – “The government deserves credit for this”<sup>166</sup> – numerous informants referred to the fact that education levels within the camps are chronically low.<sup>167</sup> Indeed, our findings clearly show that there has been insufficient investment in education by the government, and the fact that structures exist in most of the camps is a misleading indicator for the current quality of education. As one NGO worker said, “[There are] learning centres but there is nothing like learning going on down there.”<sup>168</sup> An earlier inter-agency study in Lira in 2005 concluded that the “education situation has not improved in all schools visited”<sup>169</sup> since the previous study a year earlier,

<sup>158</sup> Due to the security situation, the specific hours of the curfew are changeable, and the curfew on movement to fields can begin as early in the afternoon as 3 pm.

<sup>159</sup> Interview with government official, Kitgum, 28 October 2005.

<sup>160</sup> According to one informant, the cost of the land is apparently 20,000 Ug Shs (approx \$12 U.S.) per season – a considerable amount of money for an IDP who has little available means of generating income. (Interview with aid worker, Gulu, 24 October 2005.) However, it is likely that the cost will vary depending on location.

<sup>161</sup> Judy Adoko and Simon Levine, *Land Matters in Displacement. The Importance of Land Rights in Acholiland and What Threatens Them*, Report commissioned by CSOPNU, December 2004.

<sup>162</sup> In some camps there appear to be unofficial agreements between UPDF and IDPs that if the former steals their food, they inform the IDPs.

<sup>163</sup> Interview with NGO worker, Kampala, 20 October 2005; interview with donor, Kampala, 21 October 2005.

<sup>164</sup> Interview with local government official, Gulu, 25 October 2005.

<sup>165</sup> Interview with IDP woman, Lira, 3 November 2005.

<sup>166</sup> Boås and Hatløy, *Northern Uganda Internally Displaced Persons Profiling Study*, report commissioned by OPM, FAFO, September 2005, p. 18.

<sup>167</sup> For example, interview with IDP man, Kitgum, 30 October 2005.

<sup>168</sup> Interview with NGO worker, Kampala, 17 October 2005.

<sup>169</sup> OPM, *Inter-agency Humanitarian Assessment of Rural IDP Camps in Lira District 21<sup>st</sup> March to 24<sup>th</sup> March 2005*, 2005, p. 11.

with the main problem being teacher absenteeism. The study also noted a lack of leadership and administration, unqualified teachers, low resources in schools, and low attendance rates.<sup>170</sup>

Likewise, informants talked of unacceptably high student-teacher ratios, a problem that is exacerbated by the fact that security and housing for teachers is not provided for. In the words of a father living in Gulu,

*Most [children] are reluctant to go to school... The problem of parents is providing for scholastic materials, so children go to school empty-handed... Only very, very hardworking parents push for these children to go beyond [Primary] 7. So many children, especially the girls do not even try to compete. They simply drop out because of camp life... our hands are tied up as parents because we are in the camps. When it comes to secondary schools we just give up.<sup>171</sup>*

In particular, criticism was levelled at the government for not recognising the extent to which education within a context of civil war should not be approached from within a 'development' paradigm. Instead, emergency measures need to be put in place in order to ensure that an entire generation of young people do not miss out on their education, which is a basic human right. As a UN official said,

*[The need is for] emergency education, bringing special teachers, skim curriculum, have basic literacy, just the basics, reduced school days, have rotations of classrooms, greater use of informal settings. Donors haven't put pressure on this, donors don't regard education as a priority, but schools in conflicts are safe environments, and allow parents to do other things. With children, they grow up, become the next generation, donors don't get this: Children can't wait.<sup>172</sup>*

In other words, there is a recognised need for basic education to be provided that clearly takes into account the context of growing up within a war zone.

Not only is the government perceived as inadequate in its response to the educational needs within the region, but the international community is also seen to have failed to make this a priority. Given the fact that educating the children in northern Uganda is crucial to the region's future, the need for increased awareness and educational investment cannot be over-emphasised.

**Outstanding issues/further recommendations:**

The day-to-day reality of the ongoing war affects every facet of the lives of civilians, including their access to livelihood opportunities. The need for IDPs to safely access their land is paramount to generating a degree of self-sufficiency. While this is beginning to take place at some level, it continues to be highly limited and variable within and between districts. The issues of livelihoods and security are intrinsically linked: any discussion of livelihoods in a situation of conflict will be only palliative at best, and will not address the underlying issues relating to ending the conflict. In addition, the education needs of an entire generation can not be overlooked. It is imperative that education become a primary focus both in the camps, and in any long-term planning for the eventual return of IDPs to their homes. In this regard, all necessary measures should be taken to introduce emergency education schemes in the camps.

<sup>170</sup> Ibid, pp. 11-12, 28.

<sup>171</sup> Interview with IDP man, Gulu, 27 October 2005.

<sup>172</sup> Interview with UN official, Kampala, 27 October 2005.



## 6. Return

### 6.1 Relevant Recommendations from the Representative

*To the government of Uganda:*

(b) To provide physical protection and security for the IDPs by:

(iii) Assisting IDPs to resettle in more secure areas of the country, at least temporarily, should they wish to do so prior to the implementation of durable solutions;

(e) To consider all options for durable solutions for IDPs based on a voluntary choice, including return, resettlement in other parts of the country, or local integration under conditions of safety and dignity, and respect the choice of the IDPs in this regard

### 6.2 The Need for Durable Solutions

The majority of IDP camps across northern Uganda came about as a direct result of the government's counter-insurgency campaign, which forced civilians to move into 'protected villages' supposedly to enable the UPDF to hunt down the rebels outside of the camps. IDPs interviewed talked of the fact that anyone found outside of the perimeters of the camps or towns is in danger of being shot on sight under suspicion of being a rebel, with curfews in place to enforce this rule.<sup>173</sup> The ensuing lack of freedom of movement has left IDPs trapped within two to three kilometres of the camps. Talk of 'return' is not even on the table in Adjumani, where two IDP camps were formed in January 2006 alone, and several more unofficial IDP sites have sprung up spontaneously in the last year.<sup>174</sup> With the exception of IDPs in Lira, many of whom have returned,<sup>175</sup> they have little alternative but to remain where they are: for the majority, none of the three durable solutions to displacement, namely integration, resettlement or return, are available to them.

While some IDPs have moved to areas outside of the conflict zone, this is rarely a viable option. As one IDP said, "there are other people who have moved to Bweyale [Masindi district] and Kampala... but some come back here, an indication that life is not very simple for them there economically."<sup>176</sup> At the same time, moving over a million people to temporary locations south of the Nile is not only unrealistic, but would create as many problems as it would solve. Furthermore, the majority of IDPs interviewed simply want to return home to their own land. As a result, alternatives need to be found within the conflict zone that maximise protection for civilians, both in terms of their physical and humanitarian needs. What is clear is that the current status quo, with IDPs living in squalid, overcrowded camps, cannot continue.

### 6.3 Decongestion

The fact that the current situation in the camps is unacceptable has been widely recognised.<sup>177</sup> For instance in a recent survey of water and latrine coverage in seven IDP camps in Kitgum and Pader, one of the key findings was that "significant portions of the population have no access to latrines at all."<sup>178</sup> The government's response to overcrowded camps is to 'decongest' them which, according to those government officials interviewed, involves the creation of approximately 20 new camps in each district, with discussion of an alternate plan to decongest to the parish level. At the time of the interviews this process had already begun, albeit very slowly.<sup>179</sup> The government, supported by the UN, has defined decongestion as an "emergency intervention aimed at ensuring that displaced populations living in overcrowded camps – or in camps that due to their structure, capacity and/or management are posing a serious threat to the life of the population – are relocated in areas offering sustained security and adequate livelihoods."<sup>180</sup>

<sup>173</sup> Interview with IDP man, Kitgum, 30 October 2005, as well as numerous other concurring statements in all districts visited.

<sup>174</sup> This situation is explored in Okello and Ng, RLP Working Paper No. 19, forthcoming.

<sup>175</sup> OPM's 2005 report notes that there has been almost complete return of IDPs in Dokolo and Abenyo (southern Lira), and the WFP urban camp food distribution had dropped from 88,000 in June 2004 to 28,000 in March 2005.

<sup>176</sup> Interview with IDP woman, Gulu, 25 October 2005.

<sup>177</sup> See, for example, Boås and Hatløy, FAFO, September 2005, or harsher criticism in Paul, January 2006.

<sup>178</sup> IRC, *Water and Latrine Coverage Survey Conducted in Seven Internally Displaced Persons' Camps in Kitgum and Pader Districts, northern Uganda*, July 2005.

<sup>179</sup> Gulu District's decongestion plans were first put forward in 2003 (*Gulu District Plan for the Return of the Internally Displaced Persons (IDPs) 2003*, Gulu District Local Government), but the implementation has been hampered by the security situation. This was consistent with other findings, for example, Graham Saunders, *IDP camp decongestion: transitional settlement & camp upgrading in Gulu District, northern Uganda*, November 2004.

<sup>180</sup> Government of Uganda, Office of the Prime Minister, "Standard Operating Procedures for IDP Camp Decongestion." 11 November 2005.

However, on the ground the findings show vast discrepancies between different organisations and actors with regard to what decongestion means in practice, and whether or not it is a progressive move. Some informants were concerned that the government was promoting the idea of decongestion based on the official assumption that the war is almost over. Others accused the government of using decongestion as a political process that would enable IDPs to be able to vote more easily in the 2006 elections – and, presumably, be more easily influenced in deciding how to cast their votes. As one informant said, “Looking at the forthcoming elections, people want constituencies. The way people are congregated at the moment may not qualify as a constituency.”<sup>181</sup> Finally, many questioned why decongestion was being encouraged rather than allowing IDPs to return to their homes: if indeed the war is almost ended, why the need for complicated interim plans? As a result, there is considerable confusion on the ground as to the true meaning and intention of decongestion.

## 6.4 Conditions for Return

Despite such controversy, there was a clear desire among many of those interviewed to generate the appropriate conditions that would allow IDPs to return home, even while the conflict is still ongoing. However, it is important that this does not lead to a situation in which IDPs are forced to make a choice between chronic living conditions in the camps, or insecurity in their homes – with accompanying livelihood challenges. While allowing IDPs to return home appears to be the optimal policy at this point, it is vital that appropriate mechanisms are put in place to ensure their safety and dignity.

Clearly, the most important factor, and the greatest deterrent to IDPs choosing to go home (should the government ‘permit’ it), is insecurity. UPDF informants talked of problems associated with protecting a civilian population that is scattered.<sup>182</sup> Others mentioned the fact that landmine clearance would need to take place first.<sup>183</sup> In addition, families would need to be provided with the necessary non-food items to begin farming their land and re-building their homes. Special attention will have to be taken to consider the differing resettling capacities of vulnerable groups such as child and female headed households,<sup>184</sup> and will have to consider the lessons learnt from distribution problems during displacement. Specifically, the problems relating to food and non-food item distribution in camps, that can marginalise some groups while benefiting others disproportionately, will undoubtedly apply with resettlement packages.

Furthermore, access to markets, basic policing, education and health structures would need to be in place, and the sensitive issue of reintegrating ex-combatants will need careful planning. While this is a daunting prospect, there is growing support among respondents for the process of return to be initiated, problems notwithstanding. However, the question remains, to what extent can or should this process take place while the conflict is still ongoing?

The answer to the timing and sequencing of return, to a large extent, should be provided by the IDPs themselves – not to absolve the government and other actors from taking responsibility, but because IDPs are in the best position to make decisions about their own economic and security situation. Throughout this discussion, therefore, what is paramount is that any process that takes place should be done voluntarily, with adequate information to make informed choices.<sup>185</sup> And, most importantly, it should be gradual. Numerous interviewees referred to the fact that IDPs are keen to return home. As one informant said,

*[The] people’s wish is that they should be allowed to go back to their land... If they are given a go-ahead to move they would go. Our people have been very daring. Otherwise we would not have survived for 20 years.*<sup>186</sup>

Or in the words of a government official, “If you saw the camps you wouldn’t want a human being to live there. They still want to go back [but they ask] is my security guaranteed if I go back home? If their security is guaranteed they will go back home, even today.”<sup>187</sup>

<sup>181</sup> Interview with UN official, Kampala, 20 October 2005.

<sup>182</sup> Interview with UPDF commander, Gulu, 26 October 2005.

<sup>183</sup> Ibid.

<sup>184</sup> See for instance, Katwikirize, December 2001. His study suggested that some of the traumas of reconstruction may be similar to those during the initial displacement, especially given that construction is a male-dominated activity (section 4.1.5).

<sup>185</sup> These conditions are established by the IDP Policy, section 3.4, particularly 3.4.2.

<sup>186</sup> Interview with local government official, Gulu, 24 October 2005.

<sup>187</sup> Interview with government official, Kampala, 13 October 2005.

However, regardless of whether or not IDPs would choose to move at this point in time, until the government allows civilians unlimited freedom of movement, there can be no significant change in the current camp situation. As one informant said, "The government has to say that you are not going to be shot, you are not going to be arrested."<sup>188</sup>

## 6.5 Confusing Government Directives on Return

Thus, given that the government generated the majority of the displacement in the first place,<sup>189</sup> the government needs to 'allow' people to move out of the camps. The IDP Policy assigns roles for various stakeholders from the IATC<sup>190</sup> right down to members of the SCDMCs<sup>191</sup> to plan and facilitate the return of IDPs. The government has shown no clear policy on granting IDPs the freedom to choose whether or not to return.

Officially, the government has declared Lira, Teso, and Lango as safe, and especially in the lead-up to the 2006 elections, was encouraging people from these areas to return home.<sup>192</sup> President Museveni's assurances must be understood in the context of the elections, and indeed, such assurances of safety are in stark contradiction to reality on the ground:<sup>193</sup> the LRA still pose a serious security threat to the lives of IDPs, and the supposed former conflict zones have not been surveyed for unexploded ordnances, a duty of national security agencies and the Ministry of Health.<sup>194</sup> Moreover, although the LRA is no longer operational in Teso, displacement continues there due to Karamajong activities.

Beyond the issue of safety for the IDPs, there remains the fundamental problem of the military not allowing people to leave the camps. As a government official said, "The Army Chief of Staff said until they are really sure they can provide the necessary security they are not ready to let them go."<sup>195</sup> Or, in the words of another official, "[The rebels] can easily keep up the insurgency if they let them [IDPs] go back and they are abducted into the rebel ranks... They will be arming the rebels by providing them with manpower."<sup>196</sup> However, this is an argument that carries little weight with a population that has continued to be attacked, killed and abducted from within their so-called 'protected' villages. Therefore the mixed messages from the government and the disconnect between public statements and actual conditions on the ground have led to a high degree of scepticism and uncertainty relating to return, especially when placed against the policy of 'decongestion'.

## 6.6 Land Issues

A further issue drawn out in the recommendations, is that of potential land disputes at the point at which IDPs begin to return home.<sup>197</sup> This is crucial to long-term stability: if it is not handled with care and due process, it could lead to the development of further conflict within the region. Land has become a highly sensitive issue, not least with the rumours that have been circulating that part of the reason for the government keeping IDPs contained in camps is to enable the government to confiscate the highly fertile land in the region.<sup>198</sup> Difficulties are likely to arise in reconciling traditional land tenures (usually managed by clans) with official systems and registrations of the local government.<sup>199</sup> Given the protracted nature of the conflict, it is going to be increasingly difficult to determine claims to specific pieces of land. In addition, there are numerous issues connected with the extent to which current IDP camps will effectively become permanent settlements, which then raises questions as to what will happen to those individuals whose original land is within the camps.

<sup>188</sup> Interview with UNHCR official, Kampala, 19 October 2005.

<sup>189</sup> The circumstances in which the original displacement occurred are well-documented in HURIFO, *Between Two Fires*, February 2002.

<sup>190</sup> IDP Policy, section 2.2.2.xv.

<sup>191</sup> Ibid, section 2.5.1 assigns the task of mobilisation for return to the LC III Chairperson.

<sup>192</sup> As reported in *The New Vision*, 8 November 2005, President Museveni publicly announced plans for the return of IDPs in the Lango and Teso regions by December of that year.

<sup>193</sup> For example, UN OCHA DSS, "Security Briefing", 8 February 2006, showed that attacks had occurred in all northern districts in Lira in the last half of 2005.

<sup>194</sup> The IDP Policy, section 3.1 states, "The UPDF, the Uganda Police and Specialised Units of other national security agencies and the MoH shall ensure that the areas of return and resettlement are mapped for mines and unexploded ordnances (UXO). The UPDF, the Uganda Police and Specialised Units of other national security agencies and the Ministry of Health shall ensure that all resettlement and return sites are free of mines and Un Exploded [sic] Ordnances (UXO) and conduct Mine Risk Education in affected communities."

<sup>195</sup> Interview with government official, Kampala, 13 October 2005.

<sup>196</sup> Interview with government official, Kampala, 13 October 2005.

<sup>197</sup> For more information on land rights in the region, see Adoko and Levine, CSOPNU, December 2004.

<sup>198</sup> For a discussion on this, in particular the alleged involvement of Museveni's brother, Salim Saleh, see Hovil and Lomo 2004.

<sup>199</sup> Adoko and Levine, CSOPNU, December 2004, chapter 2. The Land (Amendment) Act 2004, grants district land tribunals the power to arbitrate disputes (section 76), while at the same time providing that the tribunals may recommend that traditional authorities be used in dispute settlement (section 88). In addition, issues of ownership may be subject to ad hoc consultations with elders and the District Land Boards, but these are susceptible to serious problems of accountability and consistency that are likely to arise as people return, something that became apparent in research conducted for RLP Working Paper No. 19.

Despite such complex issues relating to return, however, the fact remains that displacement has achieved little more than human suffering, and people are looking for alternatives. While ‘decongestion’ is currently the word being used to solve the numerous problems associated with the current camp situation, there is a strong perception that this process will only recreate the same problems. At the same time, the prospect of IDPs returning to their homes has numerous security implications. However, there appear to be few alternatives, and it is vital that, ultimately, it is the IDPs themselves who are consulted and empowered to choose what happens. In addition, the issue once again returns to the overarching reality that the conflict is ongoing: any changes that take place are happening within a war zone, and all appropriate measures of protection need to be taken into account.

**Outstanding issues/further recommendations:**

Discussions relating to return currently do not adequately engage IDPs themselves. However, it is critical that they should be central to determining the process of return, and mechanisms are therefore needed to ensure that their views are taken into account at all stages of the process. At the same time, the government needs to generate the necessary conditions for return, and plans and actions on return need to be carefully mediated with the security conditions. In addition, the issue of ‘decongestion’ has created confusion and raises serious questions with regard to the motivation of the government regarding the long-term status of the land in the north. Thus the UN and international community should be mindful of the political motivations of the government regarding return and be sure that all measures have been taken to ensure that return is voluntary, and that all actors follow the IDP Policy, including the provision for surveying land for unexploded ordnances.

## 7. Conclusion

The findings of the research show that, regardless of some areas of improvement especially at a policy level, relatively little has changed in the lives of civilians living in the war-affected areas. Despite the best efforts of numerous actors, IDPs continue to live in appalling conditions, isolated and marginalised from the rest of the country. Clearly, the most pressing issue remains the peaceful resolution of the conflict in northern Uganda: until the war ends, any efforts to improve the situation of IDPs will be frustrating and unsustainable. While the National IDP Policy provides a significant basis for dealing with the situation by local actors, as well as a tool for advocacy among human rights groups, numerous questions remain about its implementation and ability to be enforced. IDP protection is of particular concern: the deployment of the UPDF and its auxiliaries remain inadequate, and their oversight continues to be weak. At the same time, incidents of SGBV are unacceptably high. Such levels of physical insecurity are underscored by the fact that humanitarian access to the camps remains problematic, and assistance continues to be hampered by numerous structural difficulties.

Meanwhile IDPs are struggling to generate their own livelihoods, lacking land, social services, and responses that fully address the emergency nature of the situation. While the issue of return is being increasingly discussed, there is lack of clarity over the meaning and implications of 'decongestion' policies. In particular, restrictions on freedom of movement continue to prevent IDPs from being able to make their own choices and look for alternatives.

In the final analysis, however, recognition must be made of the need to balance the requirements of ending the war, with the need to attend to the immediate survival needs of the thousands of civilians caught up in the front line of this protracted and painful conflict. This dilemma lies at the heart of the conflict, and is one which civilians, government officials, soldiers, aid workers and numerous other actors have to wrestle with on a daily basis. Until the war ends, this demoralising impasse will not go away. As Mr. Deng said:

*...whatever can be done to alleviate the human suffering involved, the problems of internal displacement can only be solved by addressing the root causes, often embedded in civil wars. In such cases, only peace can restore the confidence of the displaced and encourage them to return to their homes and resume normal life. Conversely, as long as conflict prevails, not only will deprivation persist, but respect for human rights and fundamental freedoms will remain, almost by definition, elusive.<sup>200</sup>*

<sup>200</sup> Deng 1995, p. 76.

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### **THE REFUGEE LAW PROJECT**

The Refugee Law Project (RLP) was established in November 1999 with the aim of protecting and promoting the rights of forced migrants in Uganda. The RLP operates as an autonomous project within the Faculty of Law of Makerere University, and focuses on three main areas: legal assistance, training, and research and advocacy. The Refugee Law Project works towards ensuring that asylum seekers, refugees and internally displaced persons are, as specified under national and international law, treated with the fairness and consideration due fellow human beings.

### **THE INTERNAL DISPLACEMENT MONITORING CENTRE**

The Internal Displacement Monitoring Centre (IDMC), established in 1998 by the Norwegian Refugee Council, is the leading international body monitoring conflict-induced internal displacement worldwide. Through its work, the Centre contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations.

At the request of the United Nations, the Geneva-based IDMC runs an online database providing comprehensive information and analysis on internal displacement in some 50 countries. Based on its monitoring and data collection activities, the Centre advocates for durable solutions to the plight of the internally displaced in line with international standards. The IDMC also carries out training activities to enhance the capacity of local actors to respond to the needs of internally displaced people. In its work, the Centre cooperates with and provides support to local and national civil society initiatives.