

Brookings Institution – SAIS Project on Internal Displacement  
and Asia Pacific Forum of National Institutions

**National Human Rights Institutions  
and Internally Displaced Persons**

**Visit of 3 Member Team to Indonesia  
2 – 7 May 2004**

*14<sup>th</sup> May 2004*

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## **INTRODUCTION**

1. At the sixth annual meeting of the Asia Pacific Forum of National Human Rights Institutions (APF) held in September 2001, APF's member institutions highlighted their potential in ensuring that the human rights of internally displaced persons (IDPs) were respected in their respective countries. They called upon the APF secretariat to provide them with assistance on this issue.
2. Accordingly, a three-member team visited the Indonesian National Commission on Human Rights (Komnas HAM) from 2<sup>nd</sup> to 7<sup>th</sup> May 2004. The team consisted of Pip Dargan from APF, David Fisher from the Brookings Institution-SAIS Project on Internal Displacement, and Dr. Mario Gomez, a human rights lawyer from Sri Lanka. The visit to Indonesia was part of a larger project which will include visits to five other countries (India, Nepal, Philippines, Sri Lanka and Thailand) to look at the role that those national institutions could play with regard to internal displacement. The program for visit is at Attachment 1 and biographies of the APF/Brookings Institution team members are at Attachment 2.
3. The purpose of the visit was to engage with Komnas HAM, other governmental agencies, international and local non-governmental organizations and other stakeholders to discuss the role that Komnas HAM could play with regard to IDPs.
4. Within Komnas HAM, the team met with a number of Commissioners and staff in Jakarta, as well as with two regional commissioners in the regional office in Pontianak, West Kalimantan. The team also visited the Parit Bacti Suci 're-settlement' centre in the vicinity of Pontianak.
5. This report presents some ideas for consideration by Komnas HAM.

## **BACKGROUND**

6. While it is widely acknowledged that the number of IDPs in Indonesia has decreased significantly over the last few years from the peak of 1.3 million in 2001, the team was told that internal displacement remains a major human rights and humanitarian issue in several parts of the country. Problems reported to the team include lack of adequate protection of IDPs from physical harm (particularly in areas such as Aceh where armed conflict is ongoing), discrimination, lack of basic necessities, issues arising from the national government's decision at the end of 2003 to suspend special programs for return and resettlement of IDPs and to "relabel" them as "vulnerable people," and property rights issues. In many areas, the situation is volatile and unstable and the potential for new displacement remains high. In many instances, the root causes of displacement have yet to be addressed.

7. The team was told by the Commissioners and the staff that the Commission had not as yet initiated an organized program of activity to deal specifically with IDPs. Whatever action the Commission has taken on IDPs has been as a result of other programs and activities. So far, much of the Commission's activity has been focused on civil and political rights and on dealing with past human rights abuses.

8. While the Commission does not have an organized and ongoing program of activity for IDPs some important ad hoc initiatives have taken place. For example, in June 2001, the Commission co-sponsored a major national conference on internal displacement that proved pivotal in the development of the national policy on return, resettlement and rehabilitation of IDPs. The Commission has also been active in the issue of forced evictions, having organized a workshop on the issue and frequently becoming involved as a mediator in eviction disputes. A previous Commission newsletter also addressed the issue of IDPs.

9. In their meetings with the team, Commissioners and staff emphasized their desire to put in place an organized and coherent program of activity to deal with the human rights of IDPs. In the words of one Commissioner, Komnas HAM should develop a 'strategic' and long term plan, rather than 'firefighting' displacement as and when it occurs.

10. It was suggested that one reason why the Commission has not previously developed a consistent strategy regarding IDPs related to its structure. The previous structure of the Commission consisted of a plenary and four sub commissions organized functionally: (research and study, education, monitoring and mediation).

11. In March 2004, it was agreed that this structure should be changed and that in the future the Commission would be organized around three thematic sub-commissions:

- i.Civil and Political Rights
- ii.Economic, Social and Cultural Rights
- iii.Special Groups

12. It is likely that the question of internal displacement will figure either in the Special Groups sub-commission or in the Economic, Social and Cultural Rights sub-commission. It is anticipated that one Commissioner will take the responsibility for overseeing the Commission's program in this area.

13. A lack of understanding within the Commission of the nature and extent of the problem among its staff was identified as another reason why Komnas HAM has not dealt with IDPs systematically.

## **RECOMMENDATIONS**

14. The team would like to suggest that Komnas HAM consider the following initiatives and activities in developing its program in the area of internal displacement. In making these recommendations the team is aware that there are a number of human rights issues that are on the priority list for the Komnas HAM. Internal displacement is only one among a long list of priorities and its relevance and urgency would vary from region to region.

## **CAPACITY BUILDING**

15. The Commission should initiate a program of activities to build the capacity of the Commissioners, the staff in Jakarta, and the staff in its regional offices (the regular and ad hoc offices) to respond effectively and in a sustained way to the crisis of internal displacement. Capacity building could take a variety of forms:

### ***1. Focal Point***

16. Designate a Commissioner and a staff member (or members) to act as a Focal Point on the issue of internal displacement. This Focal Point would among other things:

- A. Initiate and coordinate programs to build the overall institutional capacity of the Commission.
- B. Coordinate all activities with regard to specific programs aimed at IDPs and strengthen collaboration between regional offices and the Commission.
- C. Ensure that other program areas are sensitive to the needs and rights of the IDPs.

### ***2. Training***

17. The Commission should initiate a series of training activities for the Commission's Jakarta based staff and more importantly for its staff based in the regions. These programs would aim to:

- A. Provide an understanding of the global phenomenon of internal displacement.
- B. Provide an understanding of the international normative framework, principally the UN Guiding Principles on Internal Displacement.
- C. Enhance the understanding of the local contexts in which displacement is taking place.

- D. Explore in an interactive environment some durable solutions to the crisis of internal displacement.
- E. Train a pool of resource persons who could continue to provide training to other stakeholder groups on the issue of internal displacement.

The Brookings-SAIS Project and the Asia Pacific Forum are willing to initiate a process of collaboration on the question of training between Komnas HAM and the Norwegian Refugee Council (NRC). The NRC has over a period of time developed a special expertise on the question of training on internal displacement. Brookings-SAIS and APF would also be willing to look for sources of funding to ensure that materials are translated into Bahasa and to support some of the training activities in local languages.

## **DATA COLLECTION, ISSUE MAPPING AND ANALYSIS**

18. The Commission should initiate a series of activities to collect information, data and analyses of IDPs in Indonesia. These activities would look at displacement caused by both conflict and development. These activities could take a variety of forms and may include some or all of the following:

### **1. *New Study***

A study that would combine both archival and field research and would ascertain the causes of displacement and provide an accurate assessment of the status and the rights of the internally displaced in Indonesia.

### **2. *A Collection of Existing Studies***

Collect and analyse all existing studies including studies done by international and local organisations and provide an assessment and an update of the status of internal displacement in the country.

### **3. *Meeting with Local and International Organisations***

Convene a meeting with local and international NGOs and other humanitarian and human rights organizations engaged in work with IDPs to share information, and establish and reinforce partnerships.

#### **4. Public Hearings**

Conduct public hearings on internal displacement across different parts of the country. These hearings, which have been conducted by national institutions in other countries, would listen to the views of IDPs, local and international NGOs, government agencies, the military and police, and other relevant stakeholders and present a situational analysis of the IDPs. It may be accompanied by recommendations on actions relevant stakeholders should take to protect and realize the rights of IDPs.

19. The objective of these data collection exercises would be to:
1. Provide an accurate and updated assessment of internal displacement in Indonesia, including an assessment by region.
  2. Identify the roles that the different government agencies are currently playing.
  3. Identify the roles that the different local and international organizations are playing.
  4. Identify gaps in existing law and policy and to suggest reform. (A specific program on law and policy is suggested later on in this report)
  5. Identify the obligations of the different actors in terms of the Guiding Principles on Internal Displacement.
  6. Consider specifically the situation of vulnerable (or special) groups among displaced populations such as women, children, the elderly and the disabled.

#### **A STUDY OF LAW AND POLICY**

20. The Commission should:
1. Engage a team of local consultants to undertake a study of existing law and policy, in light of international standards, identify gaps and suggest reforms. This would include an examination of the proposed comprehensive national law on disasters that is currently being discussed by various governmental agencies including Bakornas PBP.
  2. If deemed necessary as a result of the study's findings, request the team of consultants to prepare a Draft Law on Internal Displacement that the Commission could study and then advocate for with the legislature.

Among other areas, this study should address property rights issues (which have been identified as an important barrier to durable solutions to IDPs in many areas), issues of development-induced displacement, and the situation of vulnerable groups among displaced populations, such as women, children, the elderly and the disabled.

## **ADVOCACY**

21. Based on the information and analysis generated by the data collection exercises the Commission should begin to engage with central, provincial and local governments on:

- a. Systematic advocacy in individual situations of displacement, for example, with regard to land certificate and ID card issues identified by resettled IDPs in West Kalimantan as barriers to full rehabilitation.
- b. Private and, if necessary, public advocacy with different levels of government on the issue of access to war-affected civilians in Aceh by humanitarian assistance organizations.
- c. Ratification of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

## **INFORMATION DISSEMINATION**

22. As the acknowledged expert within the national government on issues of human rights, the Commission can play an important role in disseminating rights-based information relevant to IDPs, in particular:

- a. Disseminating the Guiding Principles on Internal Displacement to government agencies, NGOs, IDPs and the general public.
- b. Disseminating interpretive materials, such as “mereka yang mengungsi” a comic version of the Guiding Principles that was developed in 2002 by Oxfam GB, DipECHO, ICMC, and UN OCHA.
- c. Producing its own information resources on the Guiding Principles, for instance, through dedicating a new issue of its newsletter, Suara, to this issue (as it did in different circumstances in 2001), or dedicating an issue of “Jurnal Ham” to IDP rights issues.

## **CONCLUSION**

The team was very encouraged by the candour and determination it encountered among Komnas HAM commissioners and staff with regard to the Commission's role in supporting the human rights of IDPs. It was grateful to have had the opportunity to visit in the midst of an important period of structural and strategic planning at the Commission and hopes that its observations, recommendations, and ongoing engagement in any capacity building (including efforts to locate funding, expertise, or other resources) requested by the Commission will be put to good use. The team would like to express its deep appreciation to the Commission and its staff for their extraordinary help in organizing the visit and for the warm welcome it received.

# ATTACHMENT 1

## SCHEDULE FOR THE ASIA PACIFIC FORUM IDP TEAM, 3-7 May 2004

No	Date	Time	Asia Pacific Forum		Place	Stakeholder	Activity
1	<b>Mon 3/05/2004</b>	<b>11h00</b>	Pip Dargan David Fisher Mario Gomez RR Johana Nunik Widianti		ICRC	<b>ICRC Jereome Fonatana, Protection Coordinator</b>	Discuss IDP Issues
		<b>15h00</b>			Komnas HAM	<b>Komnas Perempuan Dr Evie Douren</b>	
2	<b>Tue 4/05/2004</b>	<b>11h00</b>	Pip Dargan David Fisher Mario Gomez RR Johana Nunik Widianti	Commissioner Enny Pak Gembong Priyono,	Komnas HAM	<b>Komnas HAM</b>	
		<b>14h00</b>	Pip Dargan David Fisher Mario Gomez RR Johana Nunik Widianti		UN Building MH Thamrin	<b>OCHA Michael Elmquist Deputy to Humanitarian Coordinator and Chief, OCHA Indonesia</b>	
		<b>16h00</b>	As above			<b>CARE International Johan Kieft</b>	
3	<b>Wed 5/05/2004</b>	<b>08h00</b>	Pip Dargan David Fisher Mario Gomez Rr Johana Nunik Widianti	Pak Gembong Priyono Secretary General, KH	Komnas HAM	<b>Komnas HAM</b>	
		<b>09h00</b>	As Above	Commissioner		<b>Komnas HAM</b>	

				Enny AND Government Agencies		<b>Depsos, Deplu, Menkokesra, Bakornas PBP, Depkeh HAM</b>	

		<b>12h00</b>		Lunch with Commissioner Enny, Commissioner Farid and Government Agencies			
		<b>14h00</b>	Pip Dargan Mario Gomez Rr Johana Nunik Widianti			<b>Catholic Relief Service (CRS) Yenni Suryani, Deputy Country Representative, Programming Wayne Ulrich, Technical Advisor for Emergency Response Delsy Ronnie, Peace Building Project Officer</b>	
		<b>15h00</b>	David Fisher		CARDI	<b>CARDI Kees Groenendijk Director</b>	
		<b>18h00</b>	Pip Dargan David Fisher Mario Gomez			<b>Cocktails hosted by Jeff Herbert (Technical Adviser to Komnas HAM) Attended by (amongst others) Pak Gembong, Sriyana, Nunik AusAID (Head and staff) USAID, ICRC, CARE International</b>	

4	<b>Thu 6/05/2004</b>	<b>06h00</b>	Pip Dargan	Pick up at hotel for airport		
			David Fisher	Flight to Pontianak, West Kalimantan to visit Komnas		
			Mario Gomez	HAM regional staff and IDP resettlement area		
			Rr Johana			
			Nunik Widianti			
			Jeff Herbert			
		<b>09h00</b>	As Above	Hotel Meeting with KH Regional Commissioners Humdi and Witarsa		<b>Komnas HAM Regional Officials Pontianak, West Kalimantan</b>
		<b>11h00 - 15h00</b>	As Above	Field visit to Parit Bacti Suci Resettlement area and family		<b>IDPs</b>
		<b>15h00-17h00</b>	As Above	Meeting with various NGOs including Institute for Women's Advocacy (These NGOs were primarily concerned with trafficking, illegal logging and aspects of displacement)		<b>Asmaniar SH, Lembaga Perempuan Kajian Advokasi Pak Hamid and Pak??</b>
		<b>19h00-21h00</b>		Meeting with NGOs at hotel		
5	<b>Fri 7/05/2004</b>	<b>09h00</b>	Pip Dargan	Return flight from Pontianak to Jakarta		
			David Fisher			
			Mario Gomez			
			Rr Johana			
			Nunik Widianti			
			Jeff Herbert			

		<b>14h00</b>	Pip Dargan David Fisher Mario Gomez Sriyana		Komnas HAM	<b>Meeting with Abdul Hakim Garuda Nusantara, SH, LLM Chairperson, Komnas HAM to discuss visit and preliminary ideas for capacity building initiatives</b>	
		<b>16h00</b>	Mario Gomez departs for his return flight home to Sri Lanka.				
		<b>16h15</b>	Pip Dargan David Fisher Rr Johana Nunik Widianti		Komnas HAM	<b>Meeting with Pak Gembong Priyono to discuss visit and preliminary ideas for capacity building initiatives</b>	
		<b>17h00</b>	Pip Dargan David Fisher Rr Johana Nunik Widianti		Komnas HAM	<b>Meeting with Commissioner Enny Soeprapto, PhD to discuss visit &amp; preliminary ideas for capacity building initiatives</b>	
		<b>18h00</b>	Pip Dargan David Fisher Rr Johana Nunik Widianti			<b>Meeting with: Zairin "Embond" Salampessy from Tapak Ambon &amp; Dino from Maluku Media Centre Both representatives</b>	

						concerned with IDPs in Ambon	
6	Sat 8/05/2004		Pip Dargan and David Fisher return to respective countries				

## **ATTACHMENT 2**

### **Ms Pip Dargan**

Ms Pip Dargan is the Deputy Director of the Secretariat, Asia Pacific Forum of National Human Rights Institutions (APF). Ms Dargan has expertise in the area of national human rights institutions (NHRIs), human rights project management and operational management. In 1996 she helped establish the APF Secretariat including its transformation into a not for profit public company in 2002. Along with Secretariat managerial responsibilities, Ms Dargan has primary responsibility for capacity-building projects with NHRIs including i) internally displaced persons ii) human rights investigation training iii) anti-trafficking iv) Jordan & Palestine institution-building and v) the APF Advisory Council of Jurists. In 2002 and 2003 Ms Dargan provided training on women's rights in five provinces (West Sumatra, Lombok, South Sumatra, Central Sulawesi and East Kalimantan) throughout Indonesia. Ms Dargan has seven years of experience in organising and managing the APF's annual meetings, human rights thematic workshops and the Advisory Council of Jurists. She has represented the APF at international and regional fora. Ms Dargan also assists the Director in providing advisory services and building partnerships with NHRIs, governments and civil society. Her recent missions to provide advisory services to NHRIs and government include Mongolia, South Korea, Sri Lanka and Timor-Leste.

Prior to assisting in the establishment of the APF, Ms Dargan worked at the Australian Human Rights and Equal Opportunity Commission and has ten years experience in the operations of a NHRI, particularly in the areas of conciliation, public education and human rights policy. During her time at the Australian Commission Ms Dargan worked closely with the former Federal Human Rights Commissioners Professor Brian Burdekin and Associate Professor Chris Sidoti. Ms Dargan has a Bachelor of Arts Degree (Double Major in History and Politics) from the University of Sydney.

### **Dr. Mario Gomez**

Dr. Mario Gomez is a Program Associate at the Berghof Foundation for Conflict Studies. The Foundation supports key influentials with regard to the transformation of the conflict in Sri Lanka. It does this through problem solving initiatives that incorporate dialogue work, capacity building and research. He is also a member of the Law Commission of Sri Lanka.

Previously he was a lecturer in law in the University of Colombo for 10 years. He lectured in jurisprudence, administrative law and constitutional law and was the Founding Director of the University's Legal Aid Centre. He was a Visiting Fellow at the Carr Center for Human Rights Policy, Harvard University in 2001/2002.

He has published in the areas of economic and social rights, women's rights, national institutions, internally displaced persons and public law. He has been involved in training programs for staff of national institutions, for members of the armed forces and for judges. He has developed and participated in training programs on economic and social rights for activists in Cambodia, Malaysia and Sri Lanka.

As a consultant he worked with the Sri Lankan Human Rights Commission to develop a program on internally displaced persons in 2001. In 2003 he assisted the Commission to develop an initiative on minority rights.

In 2000/ 2001 he worked with women's groups to develop a draft law on domestic violence. Among his recent publications is '*National Human Rights Commissions and Internally Displaced Persons: Illustrated by the Sri Lankan Experience*'.

Mr David Fisher

David Fisher is the Senior Legal and Research Officer at the Brookings Institution-Johns Hopkins University School of Advanced International Studies Project on Internal Displacement. He is based in Geneva, Switzerland, where he additionally serves as a consultant at the Office of the United Nations High Commissioner for Human Rights in support of the mandate of the Representative of the Secretary-General on Internally Displaced Persons. Fisher represents the mandate in inter-agency fora within the United Nations, assists with the planning of missions, preparation of reports, and organization of intergovernmental conferences, and undertakes research in the areas of institutional and legal approaches to internal displacement. Fisher is an attorney and researcher who has published in the areas of migration, human rights, national security and constitutional law. He is admitted to the bar in California and Hawai'i and has practiced civil and criminal law in addition to serving as a judicial clerk at the Supreme Court of the State of Hawai'i. Fisher obtained his J.D. cum laude from the University of California Hastings College of the Law in 1997, an LL.M with distinction in International and Comparative Law from the Georgetown University Law Center in 2002, and a Certificate in Refugees and Humanitarian Emergencies from the Institute for the Study of International Migration that same year.

Other team members of the APF/ Brookings Institution-SAIS Project on Internal Displacement include:

Ms Roberta Cohen

Ms Roberta Cohen is a specialist in human rights, humanitarian and refugee issues and a leading expert on the subject of internally displaced persons. Currently, she is a Senior Fellow at the Brookings Institution, Co-Director of the Brookings Institution-Johns Hopkins SAIS Project on Internal Displacement, and serves as Senior Adviser to the Representative of the United Nations Secretary-General on Internally Displaced Persons. Together with Dr. Francis M. Deng, she co-authored the first major study on internal displacement, *Masses in Flight: The Global Crisis of Internal Displacement* (Brookings, 1998) and co-edited the second volume, *The Forsaken People: Case Studies of the Internally Displaced* (Brookings, 1998). She also co-edited *The Guiding Principles on Internal Displacement and the Law of the South Caucasus: Georgia, Armenia, Azerbaijan* (American Society of International Law, 2003) and has published numerous articles on the subject of internal displacement in journals such as *Foreign Affairs*, the *Harvard International Review*, the *Bulletin of the Atomic Scientists*, the *United Nations Chronicle*, and the *Forced Migration Review*, and in newspapers such as the *NYTimes*, the *Washington Post* and the *International Herald Tribune*. In 2002, she was awarded the DACOR (State Department Diplomatic and Consular Officers Retired) Fiftieth Anniversary Award for Exemplary Writing on Foreign Affairs and Diplomacy, in particular for attention to “multilateral humanitarian issues, particularly refugees and internally displaced persons...non-traditional areas of concern for practitioners of diplomacy.”

Prior to joining the Brookings Institution, Cohen served as a Senior Adviser to the National Academy of Sciences, Senior Human Rights Adviser to the Refugee Policy Group and as a consultant to international organizations, governments and NGOs, including UNHCR, UNDP, the World Bank, and the World Health Organization. She also served as Honorary Secretary of the Parliamentary Human Rights Group, London, where she was chief operating officer of an all-party group in the British Parliament; directed the public affairs office of the American Embassy in Addis Ababa, Ethiopia where she received a USIA Superior Honor Award for reopening educational, cultural and media programs; served as Deputy Assistant Secretary of State for Human Rights in the US Department of State where she participated in the formulation and implementation of human rights policy; served as Senior Adviser to the US Delegation to the UN Commission on Human Rights and General Assembly; and served as Executive Director of the International League for Human Rights where she played a major role in bringing international human rights issues to public attention and promoting the incorporation of human rights in US foreign policy. In 1998 Cohen served as a Public Member of the US Delegation to the UN Commission on Human Rights and in 2003 as a Public Member of the US Delegation to the Organization for Security and Cooperation in Europe.

She is a Senior Fellow at the Ralph Bunche Institute of the City University Graduate Center of New York, serves on the Boards and advisory committees of various human rights and humanitarian organizations, and on the advisory committees of several journals on human rights and forced migration. She is a graduate of Barnard College (Columbia University) and received an M.A. with distinction from the Johns Hopkins University School of Advanced International Studies (Washington DC/ Bologna, Italy).

Mr Jeevan Thiagarajah

Mr Thiagarajah is Executive Director, Consortium of Human Rights, Sri Lanka, and has a M.A. (South Asian Studies), School of Oriental and African Studies (University of London. (November 1995). Certificate from Summer School on Forced Migration, Oxford under Refugee Studies Programme – July 1998.

1. PROFESSIONAL AFFILIATIONS

- Consultant – International Centre for Ethnic Studies (1984 to date)
- Chairman / Board of Management – Institute of Human Rights (1994 – to date)
- Executive Director – Consortium of Humanitarian Agencies (Nov. 1996 to date)
- Member, National Co-coordinating Committee on Relief, Rehabilitation and Reconciliation (NCCR)– (June 2002 to date)
- Consultant (Subject matter: internally displaced persons in SAARC& ASEAN)- Brookings Institute (December 2002-)
- Member, Advisory Committee, Human Rights Commission (Sri Lanka), project on Minority Rights (November, 2002)

Peace-Building in South Asia: What needs to be done?, July 28 – August 1, 2003

OTHER AFFILIATIONS/ ASSIGNMENTS

Member of the Institute of Commonwealth Studies of the School of Advanced Study, University of London; Co-coordinator of Cambodian Human Rights Task Force (a project of UNTAC - United Nations Transitional Authority of Cambodia) to co-ordinate the work jointly, of Human Rights NGOs for Cambodian elections in May 1993; Co-coordinated fact finding missions for ICES in areas affected by massacres of civilians in North Central Province in Sri Lanka; Member core-group - Children: Zones of Peace. A call for action, UNICEF initiated project (ongoing); Regional Focal Point for PARinAC (South Asia), partners of UNHCR; Member, Presidential Task Force on Human Disaster Management, Member of Board of Directors, Hayleys Photoprint (pvt) Ltd.; Visiting Lecturer on Diploma in Human Rights '98/99 Course at the University of Colombo; Member of the Eminent Persons Group on Refugee and Migratory Movements, Sri Lanka (supported by UNHCR).