

## CHAPTER 1

# Assessing National Approaches to Internal Displacement: Findings from 15 Countries

**A**s discussed in the introduction to this volume, this chapter contains comparative analysis of each of the twelve benchmarks of the Framework for National Responsibility across the fifteen countries surveyed: Afghanistan, Central African Republic, Colombia, Democratic Republic of the Congo, Georgia, Iraq, Kenya, Myanmar, Pakistan, Nepal, Sri Lanka, Sudan, Turkey, Uganda and Yemen. These countries represent over 70 percent of the best estimate of the 27.5 million individuals internally displaced due to conflict, generalized violence and human rights violations.<sup>1</sup> Each of the twelve benchmarks is a lens allowing for government practice, policy or inaction vis-à-vis internally displaced persons to be viewed and assessed.

This chapter includes analysis from the four in-depth case studies on Georgia, Kenya, Afghanistan and Sri Lanka, which follow in chapter 2.

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<sup>1</sup> According to correspondence with IDMC. Figure as of December 2010.



Kampala, Uganda / The opening of the extraordinary session of the AU Executive Council in Kampala.  
Photo: UNHCR / J. Akena /October 2009

## Benchmark 1

### Prevent Displacement and Minimize Its Adverse Effects

#### ***Do national authorities take measures to prevent arbitrary displacement and to minimize the adverse effects of any unavoidable displacement?***

Preventing the conditions that drive people into displacement is central to the responsibility of states to protect all persons residing within their territories. As elaborated in Principles 5 to 9 of the Guiding Principles on Internal Displacement, national authorities must prevent and avoid conditions that might lead to displacement, minimize unavoidable displacement, mitigate its adverse effects, and ensure that any displacement that does occur lasts no longer than required by the circumstances. Further, Principles 10 to 13 reaffirm basic rights and guarantees—the rights to life, integrity, dignity, and security—which, if respected, would prevent many of the conditions and threats that compel people to flee.

The Guiding Principles on Internal Displacement, which are reflected in the Framework for National Responsibility, distinguish between arbitrary displacement and other forms of displacement.<sup>2</sup> For example, during armed conflict, involuntary transfer of civilian populations within their own countries is prohibited under international humanitarian law except when justified by considerations of their own security or by imperative military reasons. Where those justifications are valid, evacuated persons must be permitted to return to their places of origin as soon as hostilities in the area have ceased.<sup>3</sup> Moreover, any such removals must be car-

ried out in conditions that are satisfactory with respect to hygiene, health, nutrition, and accommodation.<sup>4</sup> During natural disasters, there may be cases in which governments have a responsibility to relocate people in order to protect them from the effects of natural hazards. For example, in 2011, the government of Uganda developed a five-year resettlement plan to relocate 10,000 people per year who were living in disaster-prone mountainous regions. Many have already moved with government assistance to temporary shelters alongside hundreds of homes under construction in the western province of Kiyriandongo.<sup>5</sup>

As provided under Principle 7.3, national authorities should take the following steps in cases of involuntary displacement that are not related to emergency situations during armed conflicts or disasters:

- Ensure that a specific decision authorizing the displacement has been taken by a government authority empowered by law to order such measures;
- Inform those displaced of the reasons for their displacement and procedures to be followed as well as of arrangements for compensation and relocation, where applicable;
- Seek the free and informed consent of those to be displaced;
- Involve those affected, particularly women, in the planning and management of their relocation;
- Ensure that the competent legal authorities carry out law enforcement measures where required and;

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<sup>2</sup> See Walter Kälin, *Guiding Principles on Internal Displacement: Annotations*, 2nd ed., Studies in Transnational Legal Policy 38 (Washington, D.C.: American Society of International Law and Brookings Institution, 2008) ([www.brookings.edu/reports/2008/spring\\_guiding\\_principles.aspx](http://www.brookings.edu/reports/2008/spring_guiding_principles.aspx)).

<sup>3</sup> Fourth Geneva Convention, Article 49; First Protocol to the Geneva Conventions, Article 85(4)(a); Second Protocol to the Geneva Conventions, Article 17. See also *Guiding Principles*, Principle 6.2(b); See also First Protocol

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to the Geneva Conventions, Article 87(1) and Second Protocol to the Geneva Conventions, Article 4(3)(e) for movement-related rights of children.

<sup>4</sup> Fourth Geneva Convention, Article 49(3); Second Protocol to the Geneva Conventions, Article 17(1).

<sup>5</sup> IRIN, “Uganda: New Homes for 50,000 at Risk from Disaster,” 11 April 2011 ([www.irinnews.org/report.aspx?reportid=92432](http://www.irinnews.org/report.aspx?reportid=92432)).

—Ensure the right of those affected to an effective remedy.<sup>6</sup>

When conflicts or natural disasters occur, people feel compelled to escape dangerous situations and to protect themselves by leaving their homes and communities. This is a natural (and often effective) strategy. Even so, displacement usually has devastating consequences for the individuals displaced. Their displacement also has impacts on the communities that they leave behind as well as the communities within which they live as IDPs, and it has important implications for the work of municipal and national governments, for civil society organizations, and for international humanitarian and development agencies. Many people flee a conflict or a disaster under the assumption that leaving is a temporary measure and that they will soon return to their homes once the fighting has shifted elsewhere or the immediate destructive effects of a disaster are over. But experience has shown that displacement has a tendency to become protracted, particularly in the case of conflict. About two-thirds of the world's conflict-induced IDPs (and a similar percentage of refugees) are now considered to be living in situations of protracted displacement.<sup>7</sup> In the case of disasters, it tends to be assumed that displacement will be short-lived, but that is not necessarily true. In some cases the resulting devastation is so extensive that people simply cannot return

safely and alternative solutions can take time to find; this is a particular challenge for persons displaced due to climate change.

Therefore, measures to prevent displacement in the first place are extraordinarily important, and they require the involvement of a range of government authorities. In trying to prevent displacement in cases of conflict, governments must ensure the security of people in conflict. They must also ensure that people have access to basic services and to livelihoods so that they are not forced to leave their communities in order to survive. In the midst of armed conflict, governments are usually focused largely on military objectives. Preventing displacement in this context requires a government to make the protection of civilians a primary component of its policy and practice. At a minimum, it requires a government to hold its own military forces responsible for their obligation under international humanitarian law to protect civilians. However, displacement is often caused by non-state actors over whom the national authorities have little or no control.<sup>8</sup>

Perhaps more than any other benchmark, preventing displacement during conflict requires a high-level commitment by national authorities and the engagement of security forces. This is not a task that can be handed over to international humanitarian agencies or to domestic social service providers. Although other actors can raise awareness of mounting tensions and sound the alarm when conflict is imminent, they are rarely able to prevent displacement. That is a government responsibility. The role of other actors is to encourage and support the government in meeting its responsibility—and to call attention to situations in which displacement has not been prevented. At the same time, it is essential to

<sup>6</sup> See also Brookings-Bern Project on Internal Displacement, *Addressing Internal Displacement: A Framework for National Responsibility*, 2005, pp. 12–13.

<sup>7</sup> Brookings-Bern Project on Internal Displacement, *Expert Seminar on Protracted IDP Situations, Hosted by UNHCR and the Brookings-Bern Project on Internal Displacement, 21–22 June 2007, Geneva*, ([www.brookings.edu/events/2007/0621\\_displacement.aspx](http://www.brookings.edu/events/2007/0621_displacement.aspx)); *Forced Migration Review*, Feature Issue: *Protracted Displacement*, no. 33 (2009) ([www.fmreview.org](http://www.fmreview.org)); Elizabeth Ferris, ed., *Resolving Internal Displacement: Prospects for Local Integration*, Brookings-LSE Project on Internal Displacement, May 2011 ([www.brookings.edu/idp](http://www.brookings.edu/idp)); Brookings-LSE Project on Internal Displacement, Internal Displacement Monitoring Centre (IDMC), and Norwegian Refugee Council, *IDPs in Protracted Displacement: Is Local Integration a Solution? Report from the Second Expert Seminar on Protracted Internal Displacement, 19–20 January 2011, Geneva* ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>8</sup> See, for example, Geneva Call and IDMC, *Armed Non-State Actors and the Protection of Internally Displaced People*, conference organized by Geneva Call and IDMC, 23–24 March 2011, Geneva, June 2011 ([www.internal-displacement.org](http://www.internal-displacement.org)); *Forced Migration Review*, Feature Issue: *Armed Non-State Actors and Displacement*, no. 37 (March 2011) ([www.fmreview.org](http://www.fmreview.org)); Geneva and Greta Zeender, “Getting Non-State Actors to Protect IDPs,” *Forced Migration Review*, Supplement: *Protection and Assisting the Internally Displaced: The Way Forward* (October 2005), pp. 22–23 ([www.fmreview.org](http://www.fmreview.org)).

understand that in situations of armed conflict, governments (and non-state actors) actually have a responsibility under international humanitarian law and as reaffirmed in Principle 6 to evacuate civilians when their security is at risk or when imperative military reasons so demand.

Preventing displacement due to the effects of natural disasters is a different matter. Typically, prevention of natural disaster-induced displacement includes risk-reduction measures to mitigate the risk of disasters ever occurring and, when they do, to enable people to stay safely in their homes. For example, in earthquake-prone areas, construction of earthquake-resistant housing can prevent displacement. In areas of seasonal flooding, dykes can prevent flooding of residential areas, thus preventing displacement. Disaster risk-reduction measures are usually developed in the context of either national disaster or national development planning. They require awareness, resources, and planning, which often are difficult to generate before a disaster occurs, particularly in developing countries that face competing demands. Many governments have taken measures to reduce the risks of natural hazards,<sup>9</sup> and the international community can play an important supportive role in this area. Taking measures to prevent displacement by natural disasters is usually less politically sensitive than preventing displacement by conflict. Although early warning systems to alert people to impending disasters are crucial to prevent the loss of life, often they do not prevent displacement. In the event of flooding, people may be warned to leave their homes for higher ground or temporary shelters. In the event of volcanic eruptions, people may be evacuated to safety. In other words, displacement is a protection strategy in such circumstances. Indeed, as Principle 6 affirms, governments have a responsibility to evacuate—and thereby to displace—people if their safety and health is at risk due to a disaster. However, early warning systems can provide governments with the opportunity to take measures to prevent displacement, for example, by issuing alerts and educating their populations on self-protection strategies. Other preventive measures may include ensuring adequate food supply to the population at risk

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<sup>9</sup> See UN International Strategy for Disaster Reduction ([www.unisdr.org](http://www.unisdr.org)).

of displacement or developing alternative livelihood schemes for populations affected by crop failures.

As the research herein reveals, there are cases in which governments that are doing very little to prevent displacement by conflict have set up mechanisms to prevent displacement by natural disasters. While such disaster risk-reduction measures usually require an economic commitment, they are less politically sensitive. In conflict situations, it is especially difficult for governments to prevent displacement caused by non-state actors; at the same time, they typically do not consider it a priority to prevent displacement caused by their own military forces or paramilitaries.

## Overview of research findings

Nearly half of the fifteen countries assessed in this study had adopted some preventive measures on paper. However, efforts to mitigate the adverse effects of displacement varied, and all fifteen fell short of actually preventing displacement in practice. Successive waves of conflict and the resulting internal displacement characterized nearly all of the countries surveyed. Moreover, many of the national authorities were themselves perpetrators of violence or human rights abuses that led to displacement, and many states fostered a culture of impunity for alleged perpetrators of serious human rights abuses that in some cases may amount to war crimes and crimes against humanity.

Lack of commitment to preventing displacement is not the main problem, of course. As conflicts often cause displacement, the best way of preventing displacement is to ensure that conflicts are resolved peacefully, without resorting to violence. Although beyond the scope of this study, it is important to recognize that a commitment to preventing displacement implies a commitment to preventing armed conflict and to resolving conflicts before people are displaced.<sup>10</sup>

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<sup>10</sup> Brookings-Bern Project on Internal Displacement, *Addressing Internal Displacement in Peace Processes, Peace Agreements, and Peace-Building*, September 2007 ([www.brookings.edu/reports/2007/09/peaceprocesses.aspx](http://www.brookings.edu/reports/2007/09/peaceprocesses.aspx)).

Commitments on paper may take the form of laws and policies at the national level as well as legal instruments at the regional level. In an increasing number of countries, national legislation on internal displacement (see also Benchmark 5) contains specific provisions articulating the right of persons not to be arbitrarily displaced. The prevention element is most developed in the case of Colombia. Law 387 of 1997 affirms that “the Colombian people have a right not to be forcibly displaced” and that it is “the responsibility of the Colombian State to formulate policies and adopt measures for the prevention of forced displacement” as well as to protect, assist, and find solutions for people who are displaced.<sup>11</sup> The law spells out numerous commitments to prevent displacement, including the commitment to “neutralize and mitigate the effects of the processes and dynamics of violence that lead to displacement”; to promote and protect human rights and to abide by international humanitarian law; to integrate public and private efforts for the prevention of displacement by violence; to “guarantee timely and efficient management of all economic, administrative, technical, and human resources as they are essential for prevention”; and to “design and adopt safety, policy, legal, economic, and social measures for the prevention of and surmounting the causes that produce forced displacement.”<sup>12</sup> Among the specific measures spelled out in a section of Law 387 devoted to prevention are measures to form working groups to anticipate and prevent the risks that may cause displacement; to promote community mobilization efforts to encourage peaceful coexistence and to hold accountable those actors that cause displacement; to design and implement an international humanitarian law “plan”; to advise and support municipal and departmental authorities in developing prevention programs; and to coordinate with those authorities in the formation of “security councils” to be convened whenever there is reason to believe that forced displacement will occur.<sup>13</sup> Law 387 prescribes a particular role in prevention for municipal authorities, which are to form committees

specifically charged with implementing preventive activities, including undertaking legal measures; supporting conflict resolution mechanisms; and providing assistance when “unmet needs of people or communities . . . may possibly accelerate a forced displacement.”<sup>14</sup>

Colombia has also set up mechanisms to both warn of and respond to situations that might lead to displacement. The National Plan for Assistance to the Population Displaced by Violence adopted in 2005 (Decree 250) includes many specific measures, such as strengthening local authorities, designing prevention plans, and promoting a culture of human rights.<sup>15</sup> However, notwithstanding the extensive preventive measures provided for in national law and policy over the past nearly fifteen years, in practice, displacement has only continued to occur. The government has tended to emphasize actions that seek to fight the general conditions that give rise to arbitrary displacement, including military and security actions against illegal armed groups, neglecting the other components. A notable exception has been the Office of the Ombudsman’s early warning system (Sistema de Alertas Tempranas [SAT]), put in place in 2002 to protect populations under threat of displacement due to conflict. The Office of the Ombudsman monitors conditions that could lead to displacement, violence, or violations of human rights, and if an imminent risk is found it sends a report to the national-level Inter-Ministerial Committee for Early Warning (CIAT), which determines whether an early warning will be issued. However, CIAT has failed to respond effectively and quickly to warnings of attacks and displacement. It has declined to issue an early warning alert for about half of the Ombudsman Office’s reports; on various occasions, violence and displacement have followed.<sup>16</sup>

<sup>11</sup> Government of Colombia, Law 387 (1997), Articles 2(7) and 3.

<sup>12</sup> Government of Colombia, Law 387 (1997), Chapter I, Article 4; Chapter II, Section 1, Article 10.

<sup>13</sup> Government of Colombia, Law 387 (1997), Chapter II, Section 3, Article 14.

<sup>14</sup> Government of Colombia, Law 387 (1997), Chapter I, Article 8.

<sup>15</sup> Government of Colombia, Decree 250, 7 February 2005 ([www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx)).

<sup>16</sup> On the SAT, see: Defensoría del Pueblo, “Informe de Seguimiento a la Sentencia T-025 y Autos 218 y 266,” December 2006 ([www.defensoria.org.co/pdf/informes/informe\\_125.pdf](http://www.defensoria.org.co/pdf/informes/informe_125.pdf)); Defensoría del Pueblo, “Qué Es Sistema de Alertas Tempranas–SAT?” ([www.defensoria.org.co/red/?\\_item=110201&\\_secc=11&ts=2&hs=1102](http://www.defensoria.org.co/red/?_item=110201&_secc=11&ts=2&hs=1102)). On the weaknesses of the CIAT, see: “Informe

In Sudan, government forces, militia, and rebel groups have committed egregious human rights violations, including against those already displaced, and have mounted attacks that have resulted in massive displacement. The investigation of the International Criminal Court (ICC) into the situation in Darfur has resulted in arrest warrants for Sudanese president Omar Al-Bashir for alleged crimes against humanity, war crimes, and genocide and specifically for the forcible transfer of the civilian population. The court also has issued warrants for the former minister of state for the interior and the former minister of state for humanitarian affairs, Ahmad Harun and the alleged leader of the Janjaweed, Ali Kushayb, for alleged war crimes and crimes against humanity.<sup>17</sup> IDPs have faced repeated attacks since 1998 by government forces, including aerial bombings of relief centers and IDP camps. The government's forced displacement of civilians in oil-rich areas to allow for oil exploration has also been well documented by the UN Independent Commission of Inquiry for Darfur and by the Representative of the UN Secretary-General on

Internally Displaced Persons.<sup>18</sup>

In Pakistan, conflict and human rights abuses by all parties to the conflict over territorial control have caused displacement since 2001 in the northwestern provinces bordering Afghanistan—the Federally Administered Tribal Areas and Khyber Pakhtunkhwa, formerly known as the North-West Frontier Province. In 2009, a large-scale military offensive against insurgents in the region led to the displacement of some 3 million people. In some cases, the military forced people to leave their communities to allow for military action against the insurgents; in other cases, the military warned civilians of impending counterinsurgency operations but did not allow them sufficient time to flee. Moreover, human rights groups have characterized many of the military operations as indiscriminate or disproportionate in nature.<sup>19</sup> By using tribal militias that commit human rights violations, national authorities pursue military objectives at the expense of the rights of IDPs and other citizens.

In many cases, governments have been too weak to prevent displacement and mitigate its effects. In Iraq, nearly 15 percent of the population had been newly displaced within and outside the country by 2007. Following the bombing of the al-Askari shrine in Samarra in February 2006, sectarian violence was perpetrated to “cleanse” areas, ultimately contributing to the ethnic and religious homogenization of neighborhoods.<sup>20</sup> In addition, the gov-

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Alternativo al Consejo de Derechos Humanos,” pp. 99-100. ([www2.ohchr.org/english/bodies/hrc/docs/ngos/CCJ\\_Colombia99.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/CCJ_Colombia99.pdf)). The UN Human Rights Committee, which monitors the implementation of the International Covenant on Civil and Political Rights, has expressed concern “at the increasing number of SAT risk reports which are not converted into early warnings by the Inter-Agency Early Warning Committee (CIAT) and notes that in some cases there are no responses or effective prevention measures, which at times continues to result in massive displacements.” The committee called on the government of Colombia to take various measures to address this, including to “monitor and follow up all risk reports issued, whether or not CIAT converts them into early warnings” and to “strengthen the Ombudsman’s presence in areas at high risk of violations and extend the scope of the programme of community defenders.” Cited in UN International Covenant on Civil and Political Rights, *Consideration of reports submitted by States parties under Article 40 of the Covenant: Concluding observations of the Human Rights Committee: Colombia* CCPR/C/COL/CO/6, 4 August 2010, para 13 ([www2.ohchr.org/english/bodies/hrc/hrcs99.htm](http://www2.ohchr.org/english/bodies/hrc/hrcs99.htm)).

<sup>17</sup> See International Criminal Court, “Situation in Darfur, Sudan,” ICC-02/05 ([www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Situations/Situation+ICC+0205](http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Situations/Situation+ICC+0205)).

<sup>18</sup> UN Security Council, *UN Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, Pursuant to Security Council Resolution 1564 of 18 September 2004*, 25 January 2005, pp. 54, 64–69 ([www.un.org/News/dh/sudan/com\\_inq\\_darfur.pdf](http://www.un.org/News/dh/sudan/com_inq_darfur.pdf)); UN Economic and Social Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum*, February 2006, p. 6 ([www.brookings.edu/~media/Files/Projects/IDP/UN%20Reports/Mission%20Reports/200602\\_rpt\\_Sudan.pdf](http://www.brookings.edu/~media/Files/Projects/IDP/UN%20Reports/Mission%20Reports/200602_rpt_Sudan.pdf)).

<sup>19</sup> See, for example, Amnesty International, *As If Hell Fell on Me: The Human Rights Crisis in Northwest Pakistan*, June 2010, pp. 13–14 ([www.amnesty.org](http://www.amnesty.org)). Also see the International Crisis Group, “Pakistan’s IDP Crisis: Challenges and Opportunities,” June 2009 ([www.crisisgroup.org](http://www.crisisgroup.org)).

<sup>20</sup> According to International Organization for Migration

ernment has failed to prevent the displacement of ethnic, religious, and linguistic minorities, some of which now face near-extinction due to the fact that many of their members have fled the country. Violence against minority groups was exacerbated by the political vacuum resulting from the lack of a formed government in Iraq for much of 2010 (between March and November).<sup>21</sup> Further, the ability of national authorities in many instances to prevent displacement is severely constrained by the fact that they do not exercise full control over the entire state territory due to conflict and the presence of foreign military forces (for example, in Afghanistan and Iraq) or of non-state armed actors (for example, in Pakistan, Colombia, Sudan, Georgia, Democratic Republic of the Congo, the Central African Republic, Yemen and until 2009, Sri Lanka). For example, in Iraq, displacement slowed in 2007, with some 4,700 families displaced temporarily by the Multi-National Force—Iraq and Iraq Security Forces counterinsurgency campaigns and additional small-scale displacement due to sectarian, ethnic, or religious tensions in 2009 and 2010.<sup>22</sup> In Pakistan, national authorities have failed to prevent displacement caused by militant groups, to provide sufficient protection to civilians from attacks by the Taliban and other insurgents, and to protect civilians when these groups purposefully station themselves amid civilian populations or prohibit civilians from fleeing. In addition, in the Democratic Republic of the

Congo (DRC), throughout numerous armed conflicts, national authorities have not taken measures to prevent displacement or to minimize the adverse effects of any unavoidable displacement; rather, they themselves have committed human rights violations, including the forced displacement of civilians. All parties to the conflicts—various regular national armies, rebels, and militias, including, for example, “at least eight national armies and 21 irregular armed groups”<sup>23</sup> operating in DRC between 1998 and January 2000—have committed human rights violations and impunity has been the norm.<sup>24</sup> Minorities such as some pygmy populations have been among those targeted and forcibly displaced in the Ituri district and in North Kivu province in the northeast.<sup>25</sup>

While preventive measures are the most developed, at least on paper, in Colombia, by no means is it the only case study in which national authorities have underscored the importance of prevention. In Nepal, the government’s responsibility to prevent internal displacement is articulated in the National Policy on Internally Displaced Persons (2007). In Uganda, national authorities have taken measures to prevent arbitrary displacement and to minimize the adverse effects of unavoidable displacement, particularly with respect to disasters, although some efforts regarding conflict-induced displacement also are evident. Measures include those outlined in Uganda’s National Policy for Internally Displaced Persons (2004) as well as disaster risk-reduction efforts outlined in the Ugandan Disaster Preparedness Plan, which lists progress on the draft of the Uganda Disaster Risk Reduction and Management Policy as its first priority. The policy establishes “institutions and mechanisms to reduce Uganda’s vulnerability to disasters, effectively manage existing risks, and enhance preparedness and response capability

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(IOM) assessments, almost 90 percent of post-2006 displacement originated in Baghdad, Diyala, and Ninewa governorates; see for example, IOM, *Monitoring and Needs Assessments - Assessment of Iraqi return*, 3 November 2009 (<http://reliefweb.int/node/331832>). For further analysis of this sectarian violence, see Elizabeth Ferris, *The Looming Crisis: Displacement and Security in Iraq*, Policy Paper 5, Brookings Institution, August 2008 ([www.brookings.edu/papers/2008/08\\_iraq\\_ferris.aspx](http://www.brookings.edu/papers/2008/08_iraq_ferris.aspx)); Ashraf al-Khalidi and Victor Tanner, *Sectarian Violence: Radical Groups Drive Internal Displacement in Iraq*, 18 October 2006 ([www.brookings.edu/papers/2006/1018iraq\\_al-khalidi.aspx](http://www.brookings.edu/papers/2006/1018iraq_al-khalidi.aspx)).

<sup>21</sup> Parliamentary elections were held in Iraq in March 2010. Joanna Hoare, *State of the World’s Minorities and Indigenous Peoples 2011: Events of 2010*, Minority Rights Group International, p. 210 ([www.minorityrights.org](http://www.minorityrights.org)).

<sup>22</sup> IDMC, *Overview: Iraq: IRAQ: Little New Displacement but around 2.8 Million Iraqis Remain Internally displaced*, 4 March 2010, p. 5 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>23</sup> UN General Assembly, *Report of the Special Rapporteur on the Situation of Human Rights in the DRC (A/55/403)*, September 2000, para. 15 ([http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=5580](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=5580)).

<sup>24</sup> See: U.S. Department of State, *2008 Human Rights Report: Democratic Republic of the Congo* ([www.state.gov](http://www.state.gov)).

<sup>25</sup> Minority Rights Group, *Erasing the Board: Report of the International Research Mission into Crimes under International Law Committed against the Bambuti Pygmies in the Eastern Democratic Republic of Congo* ([www.minorityrights.org](http://www.minorityrights.org)); U.S. Department of State, *2008 Human Rights Report: Democratic Republic of the Congo*.



to likely disasters.” However, given the displacement of 8,000 people following a mudslide that killed some 300 people in the Mount Elgon area in March 2010, much remains to be done to improve Uganda’s disaster response. Kenya’s March 2010 draft IDP policy, the National Policy on the Prevention of Internal Displacement and the Protection and Assistance to IDPs in Kenya, “aims to prevent future displacement.” In addition, Kenya’s 2009 draft National Policy on Disaster Management aims to prevent disaster-induced displacement in the context of disaster risk-reduction and management. By the end of 2010, disaster management had been mainstreamed in all government ministries and staff in 80 percent of the districts had been trained in disaster management.<sup>26</sup> In the Central African Republic, the government recently has been tasked with developing an IDP policy, which, in line with the government’s regional legal obligations (see below), should include provisions relating to preventing displacement due not only to conflict but also to disaster and to development projects. By contrast, in Georgia, where a national policy was developed in 2006–2007 after more than a decade of a protracted displacement, it was perhaps inevitable that the policy focused on durable solutions to displacement. However, renewed displacement in August 2008 underscored that greater attention to preventing and mitigating the effects of any new displacement would have been valuable.<sup>27</sup>

In addition, a specific legislative measure that national authorities can take toward preventing arbitrary displacement is to criminalize it in national legislation. Colombia has done so and has prosecuted a handful of individuals on that basis. In Georgia, the criminal code likewise criminalizes displacement that takes the form of genocide or crimes against humanity. In the Central African Republic, the penal code as revised in 2010 contains a number of provisions criminalizing acts related to

arbitrary displacement, including by reaffirming that the deportation or transfer of populations constitutes a crime against humanity under international criminal law.<sup>28</sup>

Conversely, both in Georgia and in the Central African Republic, national legislation prescribes the conditions under which it is not only legitimate but also an obligation of the state to evacuate populations precisely in order to safeguard them from danger. In Georgia, such provisions are found in the Law on State Emergency and the Law on State of Martial Law. In the Central African Republic, the responsibility of government authorities with respect to protection of persons and threats to public order is set out in the Constitution; responsibility with respect to environmental and natural disasters is set out in the Environmental Code.<sup>29</sup>

The role of national authorities to prevent situations of mass internal displacement is affirmed in legally binding instruments in Africa, at subregional and regional levels. The International Conference on the Great Lakes Region Regional (ICGLR) Pact on Security, Stability, and Development, commits the eleven ICGLR member states, including the Central African Republic, the Democratic Republic of the Congo (DRC), Kenya, Sudan and Uganda, with respect to the countries surveyed in this study, to taking measures to prevent internal displacement. One of the pact’s ten protocols, the Protocol on the Protection and Assistance to Internally Displaced Persons, further emphasizes the responsibility of member states to protect individuals from displacement. An objective of the protocol is that member states shall “prevent and eliminate the root causes of displacement,” in addition to incorporating the Guiding Principles into domestic legislation. The protocol also obliges member states “to prevent arbitrary displacement and to eliminate the root

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<sup>26</sup> Interview with a senior government official at the National Disaster Operations Centre, 20 January, 2011; training manuals were developed by a task force drawn from government ministries, the UN Office for the Coordination of Humanitarian Affairs (OCHA), the United Nations Development Plan, universities, and NGOs. See OCHA Kenya, *Humanitarian Update* 48, May 2009, p. 6.

<sup>27</sup> See further the Georgia case study in chapter 2 of this volume.

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<sup>28</sup> Erin Mooney, *Examen du cadre normatif de la République centrafricaine relatif à la protection des personnes déplacées à l’intérieur de leur propre pays: Audit juridique* Brookings-Bern Project on Internal Displacement, February 2011, pp. 32–35 ([www.brookings.edu/reports/2010/11\\_car\\_audit\\_juridique.aspx](http://www.brookings.edu/reports/2010/11_car_audit_juridique.aspx)).

<sup>29</sup> Mooney, *Examen du cadre normatif de la République centrafricaine*, pp. 32–37. See also pp. 37–41 regarding the guarantees that must be met by authorities in order for any displacement due to development projects to be considered to be legal.

causes of displacement.”<sup>30</sup> Marking a watershed in IDP protection and jurisprudence, the first instrument intended to legally bind an entire region on matters related to preventing situations of internal displacement and to addressing the protection and assistance needs of IDPs, the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), has been signed by thirty-two of fifty-three African Union (AU) member states, including three of the five surveyed in this study (Uganda, the Central African Republic and the DRC), since it was adopted in October 2009.<sup>31</sup> Notably, the Kampala Convention prohibits internal displacement in situations of armed conflict and of generalized violence as well as due to natural and man-made disasters and development projects. As of August 2011, thirteen AU member states had ratified the convention: Uganda, the Central African Republic, Chad, Sierra Leone, Zambia, Gabon, Somalia, Djibouti,

Gambia, Togo, Rwanda, Mali and Guinea-Bissau.<sup>32</sup> The convention enters into force upon ratification by fifteen member states.

Some countries have taken steps to prevent displacement due to natural disasters or development but not due to conflict. Turkish national authorities have taken measures to mitigate and manage natural disaster-induced displacement, particularly due to earthquakes. In Myanmar, national authorities adopted certain measures to prevent and mitigate the effects of disaster-induced displacement, but they did not even acknowledge the existence of internal displacement due to conflict. Disaster measures were introduced following the 2004 tsunami and significantly increased after Cyclone Nargis displaced more than 200,000 in 2008. Similarly, in Sri Lanka, prevention of conflict displacement is not a part of government programming; however, the government takes measures to prevent and mitigate the effects of disaster-induced displacement. Such efforts increased after the 2004 tsunami displaced more than half a million persons. Since June 2006, the Indian Ocean Tsunami Warning System has been active in Sri Lanka. The government conducts public awareness campaigns and periodic tsunami preparedness rehearsals that include evacuations to designated safety areas. In 2009, the Ministry of Disaster Management and Human Rights identified zones at risk of flood in the upcoming rainy season and constructed drainage systems to mitigate the risk.

In Pakistan, fourteen major floods between 1947 and 2006 caused economic losses and damages of about \$6 billion, in addition to the \$9.7 billion in damages caused by flooding in 2010.<sup>33</sup> Physical flood defense

<sup>30</sup> ICGLR, *Pact on Security, Stability and Development in the Great Lakes Region* (December 2006). ICGLR, *Protocol on the Protection and Assistance to Internally Displaced Persons* (November 2006), Article 3.1. Both available at Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Regional Instruments: Africa,” ([www.brookings.edu/projects/idp/Laws-and-Policies/regional\\_policies.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/regional_policies.aspx)). See further, an article by Chaloka Beyani, who drafted and negotiated the adoption of peace treaties by the eleven ICGLR member states as well as the Kampala Convention: “Introductory note on the Pact on Security, Stability and Development in the Great Lakes Region,” 2007, London: LSE Research Online (<http://eprints.lse.ac.uk/2429>), originally published in *International Legal Materials*, vol. 46, no. 1, pp. 173-175; Walter Kälin, “The Great Lakes Protocol on Internally Displaced Persons: Responses and Challenges,” 27 September 2007 ([www.brookings.edu/speeches/2007/0927\\_africa\\_kalin.aspx](http://www.brookings.edu/speeches/2007/0927_africa_kalin.aspx)).

<sup>31</sup> See Andrew Solomon, “(Re)Introducing the African Union Convention on the Protection and Assistance of Internally Displaced Persons,” Brookings Institution, 17 February 2010 ([www.brookings.edu/articles/2010/0217\\_african\\_union\\_solomon.aspx](http://www.brookings.edu/articles/2010/0217_african_union_solomon.aspx)); Maria Stavropoulou, “The Kampala Convention and Protection from Arbitrary Displacement,” *Forced Migration Review* 36 (2011), pp. 62–63. Full text of convention available at Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Regional Instruments: Africa.”

<sup>32</sup> African Union, “List of Countries Which Have Signed, Ratified/Accessed to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)” updated by UNHCR 11 August 2011. Copy on file with the authors.

<sup>33</sup> Complete analysis of the response of national authorities to Pakistan’s various natural disasters in recent years is beyond the scope of this study. For analysis of the 2005 earthquake and the 2010 floods in Pakistan, see Elizabeth Ferris and Daniel Petz, *A Year of Living Dangerously: A Review of Natural Disasters in 2010*, Brookings-LSE Project on Internal Displacement, April 2011, pp. 29–51 ([www.brookings.edu/reports/2011/04\\_nd\\_living\\_dangerously](http://www.brookings.edu/reports/2011/04_nd_living_dangerously)).

systems are in place, but they were overwhelmed by the 2010 monsoon rains; flood warning systems are dated and unreliable. Further, as the National Disaster Management Authority (NDMA) and government of Pakistan admitted after the 2010 floods, Pakistan's pre-disaster capacity was limited in terms of capacity and financial resources—the NDMA had twenty-one staff and a budget of only \$0.74 million—and its efforts in disaster management were equally hampered by such factors.<sup>34</sup> According to initial reports, the floods affected up to 18 million people and some 6 million were in need of shelter; by September, 1.8 million were reported in IDP camps, with the number declining to slightly over 124,000 in January 2011.<sup>35</sup> Following the 2010 floods, the U.S. National Aeronautics and Space Administration launched a program for training and flood forecasting for Pakistan.<sup>36</sup> Pakistan's warning systems for tsunamis and other ocean-related hazards are weak, and the government has received assistance to develop systems, specifically a tsunami early warning system, from the UN Educational, Scientific, and Cultural Organization.

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aspx).

<sup>34</sup> National Disaster Management Authority, Government of Pakistan, *Pakistan 2010 Flood Relief: Learning from Experience: Observations and Opportunities* ([www.ndma.gov.pk/Documents/flood\\_2010/lesson\\_learned/Pakistan%202010%20Flood%20Relief-Learning%20from%20Experience.pdf](http://www.ndma.gov.pk/Documents/flood_2010/lesson_learned/Pakistan%202010%20Flood%20Relief-Learning%20from%20Experience.pdf)). Damage estimates through 2006 from Government of Pakistan, *National Disaster Risk Management Framework for Pakistan*, February 2007, p. 14; figures for 2010 from the World Bank and Asian Development Bank, "ADB-WB Assess Pakistan Flood Damage at \$9.7 Billion," Press Release 2011/134/SAR, 14 October 2010 ([http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:22733998~pagePK:34370~piPK:34424~theSitePK:4607,00.html?cid=ISG\\_E\\_WBWeeklyUpdate\\_NL](http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:22733998~pagePK:34370~piPK:34424~theSitePK:4607,00.html?cid=ISG_E_WBWeeklyUpdate_NL))

<sup>35</sup> For the number of people affected by the floods, see Emergency Events Database EM-DAT, Centre for Research on the Epidemiology of Disasters, Université Catholique de Louvain, Brussels ([www.emdat.be](http://www.emdat.be)); for shelter and displacement numbers, see OCHA, *Pakistan Monsoon Floods, Situation Report No. 23*, 9 September 2010; see also OCHA, *Pakistan Humanitarian Bulletin No. 13*, 12–20 January 2011 (<http://reliefweb.int>).

<sup>36</sup> NASA, "NASA's Pouring Funds, Scientists, and Satellites into Pakistan Flood Warning," 28 October 2010 (<http://blogs.nasa.gov>).

## Conclusion

Preventing displacement is the most important step that a government can take in exercising its responsibility to protect internally displaced persons. Yet it also is probably the most difficult and the least likely to be taken, both by national authorities and by the international community.<sup>37</sup>

This study looked only at countries that already were experiencing internal displacement—and large-scale displacement at that. Hence, it likely excludes other—more successful—cases in which governments were able to effectively safeguard populations from being displaced. Some of the countries surveyed may have prevented further displacement, such as Kenya, or, through targeted interventions, Colombia, but that conclusion is difficult to draw. However, governments can and should be expected to take certain steps to prevent forced displacement. These include a range of actions, from preventing conflict to establishing early warning systems to criminalizing in national legislation (in particular, the penal code) the act of causing arbitrary displacement.

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<sup>37</sup> See recommendations for international agencies, NGOs and government authorities to address this gap in Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons* (June 2010), pp. 141–43.



**IDP camp in Nakuru, Rift Valley, Kenya / IDP women start the day by preparing breakfast for their families, collecting water and washing dishes and clothes. This camp hosts 14, 500 people, mainly from the Kikuyu ethnicity, who left their farms following post-election violence at the end of December 2007 and in January 2008.**

**Photo: UNHCR/ H. Caux / 3 May 2008**

## Benchmark 2

### Raise National Awareness of the Problem of Displacement

***Does the government (at the highest executive level, for example, that of president or prime minister) acknowledge the existence of internal displacement and its responsibility to address it as a national priority?***

National authorities have a responsibility to raise awareness of the fact that people are displaced within their territory, that the rights of IDPs should be protected, and that the government itself is taking (or planning to take) measures to address displacement. Whenever displacement has occurred, the Framework for National Responsibility considers acknowledging that fact to be an important first step in responding to the needs of those displaced as well as in working toward solutions to displacement. Statements of concern by high-level government authorities on the existence of IDPs and the government's commitment to address their plight send a signal to other government officials—at both the national and municipal levels—that this is an important issue that needs to be taken seriously. Equally important is the message that such statements send to IDPs themselves. Too often, IDPs feel abandoned by their governments and invisible. Expressions of awareness and commitment by their governments can reassure them they have not been forgotten; those expressions also can be an important way to counteract the stigma and discrimination that IDPs often experience and instead promote solidarity with them.

But a government's acknowledgment of internal displacement is not necessarily a given. Governments, especially when they themselves are complicit in or condone displacement, may ignore or even outright deny the occurrence of internal displacement. Sometimes, governments will engage in semantic acrobatics, insisting on terms such as "migrant" or "homeless" to avoid the term "internally displaced person" and the notion of

involuntary displacement that the term, by definition, conveys. In some cases, only those displaced by the actions of insurgent forces are considered by the authorities to be "IDPs," while those displaced by the actions of government forces merely have "migrated."

Moreover, raising awareness of internal displacement—particularly when it occurs on a large scale—can have political costs that governments are reluctant to incur. In cases in which the government is anxious to demonstrate to its own population and to the international community that a conflict situation is improving and that it is in control of the situation, drawing attention to large-scale internal displacement may undermine the image that it wishes to project. As discussed below, the governments of Turkey, Iraq, Afghanistan, Pakistan, Sri Lanka and Nepal have been reluctant at certain points to highlight the fact that their military operations had displaced large numbers of people or that they had been unable to prevent other armed actors from displacing people. When a government is engaged in a conflict and eager to show that it is in control and that the situation is improving, drawing attention to IDPs can be counterproductive. Sometimes, as in the case of Myanmar, to the government does not acknowledge the existence of conflict-induced displacement. At the same time, there are cases in which governments highlight the presence of IDPs as a way of drawing attention to the human consequences of external aggression, as in Georgia, where the government has used the existence of IDPs as evidence of the human harm suffered due to the conflicts concerning Abkhazia and South Ossetia, in which Russia also has played a part.

In other cases governments have been reluctant to acknowledge internal displacement, either because it was seen as reflecting poorly on their own policies or because of a reluctance to acknowledge that IDPs have rights. Thus, the United States government resisted referring to those displaced by Hurricane Katrina as IDPs, preferring the terms "homeless" or "evacuees,"<sup>1</sup>

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<sup>1</sup> Chris Kromm and Sue Sturgis, *Hurricane Katrina and the Guiding Principles on Internal Displacement: A Global*

and the Japanese government has similarly avoided referring to those displaced by the 2011 tsunami as IDPs. Governments of most Pacific island countries do not refer to people displaced by natural disasters as IDPs, primarily due to a lack of awareness of the Guiding Principles on Internal Displacement.<sup>2</sup>

Raising awareness of the existence, situation and rights of IDPs is an essential first step in taking measures to address their needs and to work toward finding solutions for their displacement. However, undertaking some actions in line with a benchmark is not sufficient, as the results of this benchmark analysis demonstrate (and, indeed, as the evaluation of the other 11 benchmarks reveals). Political leaders can make sweeping statements of support for IDPs without taking the necessary—and sometimes costly—steps to improve the lives of IDPs. When governments make promises that they cannot keep (and may have no intention of keeping), they raise IDPs’ expectations, which, when not met, may lead to IDPs’ further disenchantment with and distance from the government. As analysis on Benchmark 9b on political participation reveals, IDPs tend to participate in political life at lower rates than non-displaced citizens. That means that there is usually not strong domestic political pressure for national political leaders, even in democratic regimes, to take displacement seriously.

Further, acknowledging and raising awareness of the situation of IDPs should not be a one-off occurrence. While the examples below provide evidence that most governments—at least at some point in time—did exercise their responsibility to IDPs by drawing attention to IDPs’ plight, it is difficult to determine the consistency and level of commitment of such awareness-raising

efforts. Sometimes, attention is paid to IDPs but then subsides or dissipates when the domestic or international political climate changes and attention shifts to other issues. Sustained political attention by the highest authorities is a necessary—but not sufficient—condition for taking responsibility for IDPs.

## Overview of research findings

The government at the highest level has acknowledged the existence of internal displacement and its responsibility to address it as a national priority in twelve of the fifteen countries surveyed (Afghanistan, Central African Republic, Colombia, Georgia, Iraq, Kenya, Nepal, Sri Lanka, Sudan, Turkey, Uganda and Yemen). In two of the countries surveyed (Myanmar and Pakistan), the government did not seem to engage in awareness raising or openly recognize its responsibility for conflict-induced displacement. In several of the countries surveyed, a government’s acknowledgment in public speeches and on paper—whether in peace accords or in national laws and policies on IDPs—of its responsibility to address internal displacement did not guarantee that it did so in practice. Many, if not most, IDPs are unaware of their rights or of the programs intended to serve them. They often face enduring and evolving needs for protection and assistance—whether in situations of fresh, multiple, or protracted displacements—which often are caused by the very government charged with their protection.

Even when acknowledgment of IDPs and frameworks to help them do exist, “trickle down” awareness can be lacking throughout the different levels of government; as a result, the officials most likely to have a direct impact on the lives of IDPs may not be well informed of the measures that they are supposed to take in accordance with national laws or policies. For example, the government of Nepal has acknowledged the existence of internal displacement in the Comprehensive Peace Accord, its National Policy on Internally Displaced Persons (2007), and in government press releases, reports (particularly the National Peace Trust Fund reports), and ministerial

<sup>2</sup> Brookings-LSE Project on Internal Displacement, *Regional Workshop on Internal Displacement Caused by Natural Disasters and Climate Change in the Pacific—Synthesis Report*, Pacific Island Forum Secretariat, Suva, Fiji, 4–6 May 2011 ([www.brookings.edu/events/2011/0506\\_idp\\_fiji\\_workshop.aspx](http://www.brookings.edu/events/2011/0506_idp_fiji_workshop.aspx)); OHCHR, “Protecting the Human Rights of Internally Displaced Persons in Natural Disasters: Challenges in the Pacific,” discussion paper, 2011 ([http://pacific.ohchr.org/docs/IDP\\_report.pdf](http://pacific.ohchr.org/docs/IDP_report.pdf)).

speeches. However, the Nepalese authorities have not met their obligations, under the national IDP policy, to conduct awareness-raising programs for IDPs regarding their fundamental rights, to disseminate information related to IDP issues, and to regularly communicate with all relevant stakeholders regarding displacement. Even government officials responsible for addressing internal displacement are largely or completely unaware of the policy. According to an assessment conducted by the Nepal IDP Working Group, “none of [the] government’s district level agencies (other than CDOs [Chief District Officers], LDOs [Local Development Officers], and [the] Police) are aware” of the National Policy on Internally Displaced Persons and “it is unfortunate that VDCs [Village Development Committee] Secretaries, who are the primary implementers at the grass root level, have little or no knowledge” of the policy. It only follows that IDPs themselves are also ill-informed. While 61 percent of surveyed IDPs knew that return and rehabilitation package existed, only 33 percent of respondents had received state relief and assistance from this program. In addition, only 35 percent were aware of the national IDP policy—due to NGO efforts, not government—and none could identify any of its elements.<sup>3</sup>

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*Human Rights Perspective on A Natural Disaster* (Durham, N.C.: Institute for Southern Studies), vol. xxvi, nos. 1–2, a special report by the Institute for Southern Studies and Southern Exposure, produced in collaboration with the Brookings-Bern Project on Internally Displaced Persons], January 2008 ([www.southernstudies.org/ISSKatrinaHumanRightsJan08.pdf](http://www.southernstudies.org/ISSKatrinaHumanRightsJan08.pdf)); Roberta Cohen, “An Institutional Gap for Disaster IDPs,” *Forced Migration Review*, no. 32 (April 2009), pp. 58–59 ([www.fmreview.org/FMRpdfs/FMR32/58-59.pdf](http://www.fmreview.org/FMRpdfs/FMR32/58-59.pdf)); Roberta Cohen, “Human Rights at Home,” statement at the Kennedy School of Government at Harvard University, 1 November 2006 ([www.brookings.edu/speeches/2006/1101humanrights\\_Cohen.aspx](http://www.brookings.edu/speeches/2006/1101humanrights_Cohen.aspx)).

<sup>3</sup> IDP Working Group, *Distant from Durable Solutions: Conflict Induced Internal Displacement in Nepal*, June 2009, pp. 34, 37–38 ([www.internal-displacement.org](http://www.internal-displacement.org)); citations from p. 38. The IDP Working Group in Nepal is composed of seven international and national agencies: the Norwegian Refugee Council (NRC), International Rescue Committee, Save the Children, International Relief

While acknowledging internal displacement and/or a government’s responsibility to address it on paper or in speeches may be better than not acknowledging it at all, significant gaps in implementation remain. Those gaps may point to the need to draft policies and laws that provide more realistic ways and means for governments to fulfill their obligations in light of their often limited resources and the political constraints that they must deal with while still respecting a rights-based approach to protection and assistance of IDPs in line with international standards. From the research conducted for this study, it appears that the motives of presidents, prime ministers, and other high-level officials in calling attention to the phenomenon of internal displacement and their initiatives to address it are primarily political—for example, to garner support from IDPs and other national groups and possibly to keep their countries on the radar of the international system to secure funding. It also is likely that in some cases international pressure has led governments to adopt policies or make statements on the importance of addressing displacement when the governments were unable or unwilling to translate their stated commitments into effective action on the ground. That may be due to a lack of capacity, but it also may be due to lack of will to do more than pay lip service to the importance of the issue.

The government of Uganda has recognized its national responsibility to address internal displacement politically, legally, and operationally. It was the first country in the world to request and receive, in March 1999, training on the Guiding Principles on Internal Displacement, which was co-organized by the Norwegian Refugee Council (NRC) and the Office of the UN High Commissioner for Human Rights (OHCHR) at the request of and in collaboration with the Office of the Prime Minister. Lasting acknowledgment is most evident in the National Policy for Internally Displaced Persons (2004), which recognizes IDPs’ specific protection and assistance

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and Development, Caritas, Informal Sector Service Center (INSEC) and Inhured International. The assessment was led by NRC and included direct interviews with 234 IDPs and returnees from 19 districts.

needs, in particular the need for food security in camps, livelihood development for returnees, and improved infrastructure and basic services in both camps and return areas. The policy designates the Department of Disaster Preparedness and Refugees as the conduit for IDP-related information and obligates the Ministry of Information to provide “free broadcasting of information relating to assistance to IDPs.”<sup>4</sup> However, the International Organization for Migration (IOM) predicted in 2005 that the demanding technical and maintenance requirements of such a system would encumber its implementation.<sup>5</sup> Uganda has demonstrated regional leadership on the issue of IDPs through its hosting of the first Africa Union summit focused on refugees and IDPs in Africa in October 2009 and through its key role in negotiations that led to the adoption in 2009 of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

The government of Iraq at the highest level has acknowledged the existence of conflict-induced internal displacement and its responsibility to address it as a national priority. This is evident in Iraq’s National Policy on Displacement (2008) which addresses pre- and post-2003 displacement and which includes provisions for promoting dialogue for national reconciliation and for ensuring IDPs’ access to information on humanitarian assistance, social assistance and durable solutions. The policy specifies channels of communication: local and national government offices, local and national media, community-based organizations, nongovernmental organizations (NGOs), mosques, and information centers.<sup>6</sup> The government’s commitment to addressing the internal displacement of Iraqis in 2006 and 2007 is also

evident in Council of Ministers Decree 262 and Prime Minister Order 101 to facilitate property recovery in the Baghdad governorate, and Order 58, which extends those measures to the Diyala governorate (most IDPs originate from these two governorates). In addition, the prime minister and high-level officials have made public statements recognizing the issue of IDPs and their responsibility to address it. For example, in a joint statement issued in November 2009 by Ambassador Sadiq Rikabi, political adviser to the prime minister of Iraq and Iraqi coordinator for refugees and IDPs, and high-level U.S. administration officials, the officials recognized that Iraq is responsible for matters pertaining to its citizens and agreed to cooperate with one another and with other relevant actors, including IOM and UNHCR, on a series of steps to assist Iraqi IDPs and refugees.<sup>7</sup> More recently, in January 2011 Iraq’s deputy minister of migration and displacement spoke of a plan to resolve the problem of internally displaced persons within a year and to create durable conditions for the return and reintegration of IDPs and refugees. However, a predecessor of the deputy minister observed that while the plan “looks good on paper,” there had not been an effort to involve other relevant ministries and security agencies.<sup>8</sup>

In Georgia, the government at the highest levels acknowledges the occurrence of internal displacement resulting from conflicts concerning Abkhazia and South Ossetia and its responsibility to address displacement as a national priority. The subject of IDPs and related government initiatives are regularly highlighted in the president’s annual state of the union address, and the government has promoted the issue of IDPs at international and regional forums. However, as the case study in this

<sup>4</sup> Uganda’s National Policy for IDPs, § 5.1

<sup>5</sup> International Organization for Migration, *Uganda: Internally Displaced Persons in the 2006 National Elections*, IOM Project on Political Rights and Enfranchisement System Strengthening (PRESS), May 2005, p. 38 ([www.geneseo.edu/~iompress/Archive/Outputs/Uganda\\_Action%20Plan\\_PRESS\\_May\\_05.pdf](http://www.geneseo.edu/~iompress/Archive/Outputs/Uganda_Action%20Plan_PRESS_May_05.pdf)).

<sup>6</sup> Article 6(8) ([www.brookings.edu/projects/idp/Laws-and-Policies/iraq.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/iraq.aspx)).

<sup>7</sup> The U.S. officials were Eric Schwartz, U.S. Assistant Secretary of State for Population, Refugees, and Migration, and Samantha Power, senior director at the National Security Council and White House coordinator for Iraqi refugees and IDPs.

<sup>8</sup> Radio Free Europe/Radio Liberty, “Iraq Drafts Plan To Help IDPs, Refugees,” 26 January 2011 ([www.rferl.org/content/iraq\\_plan\\_help\\_idp\\_refugees/2287542.html](http://www.rferl.org/content/iraq_plan_help_idp_refugees/2287542.html)).



report notes,<sup>9</sup> internal displacement due to conflict is a highly politicized issue in Georgia, taken up particularly in the run-up to elections, with promises made, including by the president, to restore the territorial integrity of Georgia and thereby enable IDPs to exercise their right to return.<sup>10</sup> Indeed, until very recently, the government's advocacy and efforts on the part of IDPs were single-minded, focused only on the solution of return, while impeding through national legislation and policy IDPs' access to their rights and alternative solutions in the place of displacement. While the government has focused on conflict-induced IDPs, it has also sought to draw attention to natural disaster-induced internal displacement in Georgia.<sup>11</sup>

In Sri Lanka, government acknowledgment often has been framed in terms of providing for assistance to and return of IDPs (often called "resettlement" in the Sri Lankan context). But since the end of the conflict in May 2009, the government's public acknowledgment and response has focused on "new" IDPs, those displaced since 2008, effectively excluding from formal and official assistance and protection about 200,000 of the "old" cases of people internally displaced by the conflict before 2006. In September 2009 the Sri Lankan prime minister stated that "the Government reiterates its firm resolve to resettle the IDPs expeditiously." In September 2009, at the Sixty-Fourth Session of the UN General Assembly, the prime minister stated, "One of our highest priorities thereafter [after the defeat of the Liberation Tigers of Tamil Eelam in May 2009] has been to meet the immediate humanitarian needs of these displaced civilians, and to ensure their long-term safe, voluntary and dignified return to their homes."<sup>12</sup>

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<sup>9</sup> See Georgia case study, Ch. 3.

<sup>10</sup> See, for example, "Georgia: Saakashvili Vows to Secure IDPs' Return to Abkhazia in Months," 28 November 2007 (<http://reliefweb.int/node/250451>).

<sup>11</sup> Erin Mooney, "Georgia: Case Study of National Responsibility in Addressing Internal Displacement."

<sup>12</sup> Address by Honourable Ratnasiri Wickramanayaka, Prime Minister and the Head of Delegation of the Democratic Socialist Republic of Sri Lanka at the Sixty-Fourth Session of the United Nations General Assembly, New York, 26

The Central African Republic, Democratic Republic of the Congo, Kenya, Sudan and Uganda—all of which are signatories to the legally binding International Conference on the Great Lakes Region (ICGLR) Regional Pact on Security, Stability and Development (2006) and its ten protocols, two of which deal with IDPs—recognize the existence of internal displacement and their responsibility to address it in national IDP policies.<sup>13</sup>

The government of Sudan has acknowledged its responsibility to address internal displacement, including within the language of its policies pertaining to internal displacement. Both the National Policy on Internally Displaced Persons (2009) and the Policy Framework for the Return of Displaced Persons in a Post-Conflict Sudan (2004) acknowledge that primary responsibility for the protection of internally displaced persons rests with the state of Sudan. The National Policy also lists "raising public awareness on the policy, vulnerabilities and the problems that might result [in] displacement" as one of the state's obligations to IDPs. However, the National Policy has, generally speaking, yet to be implemented.

In the Democratic Republic of the Congo the government has acknowledged the existence of IDPs in its meetings with international actors; it also is a signatory to the ICGLR Regional Pact on Security, Stability and Development and its ten protocols, including the Protocol on the Protection and Assistance to Internally Displaced Persons. The Model Legislation on the Implementation of the Protocol on Protection and Assistance to Internally Displaced Persons annexed to the Protocol envisages awareness-raising efforts conducted by member states. However, there is no direct evidence of awareness-raising by the government at the highest levels on IDP issues. At a regional

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September 2009 ([www.un.org/ga/64/generaldebate/pdf/LK\\_en.pdf](http://www.un.org/ga/64/generaldebate/pdf/LK_en.pdf)).

<sup>13</sup> The two protocols on IDPs are the Protocol on the Protection and Assistance to Internally Displaced Persons and the Protocol on the Property Rights of Returning Populations.

intergovernmental conference on internal displacement, the government openly discussed its efforts and the bureaucratic challenges that it has faced in coordinating its response to internal displacement.<sup>14</sup>

In Kenya, the government's recognition of internal displacement and its responsibility for awareness-raising are reflected in the draft National Policy for the Prevention of Internal Displacement and the Protection and Assistance to Internally Displaced Persons in Kenya, as well as in press releases, statements, and reports and in the development of ministerial institutions focusing on internal displacement.<sup>15</sup> The draft policy, developed in partnership with the Office of the Representative of the UN Secretary-General on the Human Rights of IDPs, includes provisions for raising awareness among IDPs (including illiterate IDPs) of their rights, entitlements, and judicial remedies and of the policy itself; it also calls for informing all actors involved of the rights of IDPs, including in particular law enforcement and state security agencies.<sup>16</sup> The government states as one of the policy's objectives "the raising of awareness of their [IDPs'] rights" and states its commitment "to

prevent and avoid conditions that are conducive to or have the potential of resulting in the displacement of persons," including by "promoting an understanding among the public at large of the phenomenon of internal displacement and its social, economic, political and legal consequences for the individual, the community and the country."<sup>17</sup> The policy also includes provisions concerning public awareness of evacuations, preventing the spread of contagious and infectious diseases such as HIV/AIDS and malaria among displaced populations, environmental awareness-raising to protect water resources, and the prevention of natural disasters through environmental destruction.

In the Central African Republic, where in 2010 the government began the process of developing a draft IDP law, the National Standing Committee for IDPs established by the president is charged with conducting activities to raise awareness of displacement, including by holding training sessions on the issue, on humanitarian law, and on the Guiding Principles as well as by mounting broader public campaigns.<sup>18</sup> These provisions are in line with the Model Legislation on the Implementation of the Protocol on Protection and Assistance to Internally Displaced Persons annexed to the ICGLR Protocol on the Protection and Assistance to Internally Displaced Persons (2006).<sup>19</sup> Information on any such activity of the Standing Committee could not be identified. Before the establishment of the Standing Committee, the gov-

<sup>14</sup> Brookings-Bern Project on Internal Displacement, *Regional Seminar on Internal Displacement in the Southern African Development Community (SADC) Region, Gaborone, Botswana, 24–26 August 2005* ([www.brookings.edu/events/2005/0826\\_southern\\_africa.aspx](http://www.brookings.edu/events/2005/0826_southern_africa.aspx)).

<sup>15</sup> "National Policy for Protecting and Assisting Internally Displaced Persons in Kenya," speech of Minister of State for Special Programmes at the Workshop on the National Internally Displaced Persons Policy, 17 March 2010 ([www.sprogrammes.go.ke/index.php?option=com\\_content&task=view&id=321&Itemid=117](http://www.sprogrammes.go.ke/index.php?option=com_content&task=view&id=321&Itemid=117)); "National Policy for Protecting and Assisting Internally Displaced Persons in Kenya," Speech of Permanent Secretary, Ministry of Justice, National Cohesion and Constitutional Affairs, Workshop on the National Internally Displaced Persons Policy, 17 March 2010 ([www.sprogrammes.go.ke/index.php?option=com\\_content&task=view&id=322&Itemid=96](http://www.sprogrammes.go.ke/index.php?option=com_content&task=view&id=322&Itemid=96)).

<sup>16</sup> Government of the Republic of Kenya, *National Policy on the Prevention of Internal Displacement and the Protection and Assistance to Internally Displaced Persons in Kenya*, final consolidated draft (24 March 2010), chapters IV, VIII, and IX. Draft on file with the authors.

<sup>17</sup> *Ibid.*, "Objectives," p. 9; *Ibid.*, Chapter IV, 3(i).

<sup>18</sup> In French, the committee is called *Comité National Permanent de Concertation et de Coordination pour la Gestion de la Protection des Droits des Personnes Déplacées*. It was established by the Central African Republic's High Commissioner for Human Rights and Good Governance in 2009 to coordinate the national response to internal displacement.

<sup>19</sup> Article S.6(10) and (11) of the Model Legislation, discussed in Erin Mooney's legal audit of laws in the Central African Republic relating to IDPs, *Examen du cadre normatif de la République Centrafricaine relatif à la protection des personnes déplacées à l'intérieur de leur propre pays* (available in French only), Brookings-Bern Project on Internal Displacement, February 2011, p. 20 ([www.brookings.edu/idp](http://www.brookings.edu/idp)).

ernment office charged with coordinating assistance to IDPs, the Ministry of Social Affairs, lacked visibility as well as the funds and capacity to respond to the needs of IDPs. Financial and institutional capacity remains a constraint for the committee.

National authorities in Myanmar do not recognize the existence of conflict-induced internal displacement and hence do not acknowledge their responsibility to address it. However, displacement due to natural disasters, while initially ignored by the government after devastating Cyclone Nargis in 2008, has been acknowledged as an issue in a government plan developed with regional and international partners, the Post-Nargis Recovery and Preparedness Plan.

The vice president of the government of Southern Sudan (GoSS) admitted during the visit of the Representative of the Secretary-General on Internally Displaced Persons (RSG) in 2005 that there was a lack of sensitivity to IDPs' rights among military, police, and administrative structures within the GoSS. He acknowledged that more advocacy was needed on behalf of the human rights of IDPs.<sup>20</sup> Information about any subsequent government efforts to rectify these issues was not available, but the government's Ministry of Humanitarian Affairs and Disaster Management implemented an "emergency repatriation" program with the slogan "Come Home to Choose" to assist 1.5 million Southern Sudanese returning from the North and Egypt in time for the January 2011 referendum on secession from the North.<sup>21</sup> Given

reservations expressed by international actors and lack of funding, the GoSS revised the program, launching its Accelerated Returns and Reintegration Initiative in late October 2010. The revised program foresaw a longer period for return and a total of about half a million returnees before the January 2011 referendum.<sup>22</sup> Returns were fewer in number than the government had anticipated, however, and there was evidence that a lack of information has hindered IDPs' return and reintegration in the South. For example, as the Internal Displacement Monitoring Centre (IDMC) reported in May 2011: "Neither the GoSS nor state governments have formulated or publicised a clear policy on who is entitled to land where, forcing people to try to keep their options open." IDMC explains further:

The GoSS has provided little or no information to IDPs on what they can expect upon returning. Several returnees told IDMC that no information was made available to them before they decided to return to their homes in the south. They emphasised that they were invited to return by their governments and so expected to be either able to return to their land or given alternative land on which to settle.<sup>23</sup>

The results of the lack of policy and communication have been seen on the ground. According to some humanitarian agencies, adequate information was "not systematically made available to IDPs [in Khartoum] about organised or spontaneous returns." In November and December 2010, only 120,000 Southern Sudanese returned from Khartoum to the South. Many IDPs on the move from Khartoum have not yet made it to their villages; they are instead displaced in areas around their villages. Some returnees, such as the 16,000 displaced in

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<sup>20</sup> UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin: Addendum: Mission to the Sudan*, E/CN.4/2006/71/Add.6, 13 February 2006, para. 57 ([www2.ohchr.org/english/issues/idp/visits.htm](http://www2.ohchr.org/english/issues/idp/visits.htm)).

<sup>21</sup> Refugees International, "Statement by Refugees International on the Government of Southern Sudan's Mass Repatriation Plans," 27 August 2010 ([www.refugeesinternational.org/press-room/press-release/government-southern-sudan%E2%80%99s-mass-repatriation](http://www.refugeesinternational.org/press-room/press-release/government-southern-sudan%E2%80%99s-mass-repatriation)); BBC, "South Sudan Plans Mass Return ahead of Referendum," 24 August 2010 ([www.bbc.co.uk/news/world-africa-11073919](http://www.bbc.co.uk/news/world-africa-11073919)); Hannah Entwisle, *The End of the Road?* A

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*Review of UNHCR's Role in the Return and Reintegration of Internally Displaced Populations*, UNHCR, Evaluation Reports, 1 July 2010 ([www.unhcr.org/4c4989e89.html](http://www.unhcr.org/4c4989e89.html)).

<sup>22</sup> IDMC, NRC, "Briefing paper on Southern Sudan: IDPs return to face slow land allocation, and no shelter, basic services or livelihoods," 30 May 2011, p. 1 ([www.internal-displacement.org/briefing/south-sudan](http://www.internal-displacement.org/briefing/south-sudan))

<sup>23</sup> *Ibid.*, p. 2.

Northern Bahr el Ghazal, were in transit sites in April 2011—some had been there for months.<sup>24</sup>

In some contexts, it is not in the government's national interest to admit that there is an internal displacement problem and the flow of displacement-related information is controlled by the state. This had historically been the practice of the government of Yemen until February 2010 following the cease-fire, at which point the government publicly began to acknowledge the issue of internal displacement and call for resolution of their displacement. President Ali Abdullah Saleh reportedly ordered local authorities in Sa'ada and Amran governorates to facilitate the safe return of IDPs and the reconstruction of affected areas. In April 2010, Minister Ahmed Al-Kohlani, chief of the Executive Unit for IDPs, stated that some 350,000 people remained displaced by the conflict—a figure higher than UN estimates at the time. Moreover, shortly after a subsequent reconciliation agreement signed in June 2010, the government called on Houthi rebels to facilitate the return of IDPs.

For many years the government of Turkey had a similar reluctance to acknowledge internal displacement.<sup>25</sup> It was not until the mission to Turkey in 2002 of Francis Deng, the Representative of the Secretary-General on Internally Displaced Persons, that the government officially acknowledged the existence of internal displacement. In its Law on Compensation and in its Return to Village and Rehabilitation Program, the government acknowledges internal displacement as a national issue, due to “terrorism” or the fight against it. While the Turkish government has acknowledged the existence of internal displacement and its responsibility to address it, most notably in its Integrated Strategy Document, adopted by the Council of Ministers on 17 August

2005,<sup>26</sup> it is worth noting that it has “never formally acknowledged its responsibility for forcibly evicting its citizens from their homes and for the human rights violations committed by its security forces during the displacement.”<sup>27</sup> However, more generally, the government has admitted that it made mistakes vis-à-vis the Kurds; this admission is part of its effort to raise national awareness of the problem of internal displacement. In 2005, Prime Minister Recep Tayyip Erdoğan gave a historic speech in the Kurdish-dominated city of Diyarbakir in which he made a rare acknowledgment that the state had mistreated the Kurds and would work to solve the Kurdish issue. However, as Dilek Kurban highlights, this peaceful rhetoric belied actual circumstances, which were that the government was increasing police authority and penalties for the crime of terrorism under the new Turkish Criminal Code and was expanding the scope of its Counterterrorism Law.<sup>28</sup>

Further, until recently, there were no official statistics or efforts to account for the internally displaced population

<sup>24</sup> IDMC, NRC, “Briefing paper on Southern Sudan: IDPs return to face slow land allocation, and no shelter, basic services or livelihoods.”

<sup>25</sup> See Roberta Cohen, “‘Tough Nuts to Crack’: Dealing with Difficult Situations of Internal Displacement,” working paper, Brookings Institution, 1998 ([www.brookings.edu/events/1999/0128\\_displacement.aspx](http://www.brookings.edu/events/1999/0128_displacement.aspx)).

<sup>26</sup> For full text in English, see the Brookings-LSE Project on Internal Displacement collection of national and regional laws and policies on internal displacement ([www.brookings.edu/projects/idp/Laws-and-Policies/idp\\_policies\\_index.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/idp_policies_index.aspx)).

<sup>27</sup> Deniz Yüksek and Dilek Kurban, *Permanent Solution to Internal Displacement? An Assessment of the Van Action Plan for IDPs*, Turkish Economic and Social Studies Foundation (TESEV), May 2009, p. 9 ([www.tesev.org.tr/UD\\_OBJS/PDF/DEMP/TESEV\\_VanActionPlanReport.pdf](http://www.tesev.org.tr/UD_OBJS/PDF/DEMP/TESEV_VanActionPlanReport.pdf)).

<sup>28</sup> Also referred to in English as the Anti-Terror Law: Anti-Terror Law No. 3713, 12 April 1991. “TESEV’s Kurban: Solving Kurdish Problem Would Bring More Votes to AK Party,” *Today’s Zaman*, 28 June 2010 ([www.todayszaman.com/tz-web/news-214399-tesevs-kurban-solving-kurdish-problem-would-bring-more-votes-to-ak-party.html](http://www.todayszaman.com/tz-web/news-214399-tesevs-kurban-solving-kurdish-problem-would-bring-more-votes-to-ak-party.html)); Helena Smith, “PKK Declares Ceasefire after Erdogan Offers Olive Branch,” *The Guardian*, 20 August 2005 ([www.guardian.co.uk/world/2005/aug/20/turkey.helenasmith](http://www.guardian.co.uk/world/2005/aug/20/turkey.helenasmith)); Emrullah Uslu, “AKP Prepares a Comprehensive Plan to Address the Kurdish Question,” *Eurasia Daily Monitor*, vol. 6, no. 142, 24 July 2009 ([www.jamestown.org/programs/edm/single/?tx\\_ttnews\[tt\\_news\]=35317&cHash=a453f2be82](http://www.jamestown.org/programs/edm/single/?tx_ttnews[tt_news]=35317&cHash=a453f2be82)).

in Turkey. One of the main recommendations of Francis Deng during his mission to Turkey in 2002 was to collect data on the nature and scale of the problem of internal displacement. In 2005, the Turkish government commissioned a survey conducted by the Institute of Population Studies at Hacettepe University to assess the size and needs of the internally displaced population. Begun in 2004 and launched in 2006, the Turkey Migration and Internally Displaced Population Survey found that there were an estimated 950,000 to 1,200,000 conflict-induced IDPs between 1986 and 2005 in fourteen provinces during a declared state of emergency. The survey examined the socioeconomic characteristics of IDPs before and after migration/displacement, their reasons for migration/displacement, and their intentions regarding return and future migration. The survey also asked IDPs whether they were aware of the Return to Village and Rehabilitation Program and compensation laws and whether they had filed for compensation. The government's delay in releasing the results of the Hacettepe survey was criticized by NGOs such as TESEV and the immediate release of the results was one of RSG Walter Kälin's recommendations following his working visit to Turkey in September 2006. The minister of foreign affairs, discussing the survey, said that "Turkey's sole priority is not to come up with a figure of IDPs, but rather to correctly identify them and devise policies to remedy the problems of these people." He added that a "holistic approach should be taken towards the issue" to ensure that the social, economic and cultural needs of IDPs are comprehensively addressed.<sup>29</sup> It is worth noting that the results of the qualitative component of the study had yet to be released at the time of writing.

Even in countries where the government's recognition of internal displacement and its will to address it have been evident over the course of several or more years, that will does not necessarily translate to tangible action

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<sup>29</sup> Republic of Turkey, Ministry of Foreign Affairs, "Internally Displaced Persons (IDPs) and the 'Return to Village and Rehabilitation Program' in Turkey" [date unknown, but after December 2006]. ([www.mfa.gov.tr/internally-displaced-persons-\\_idps\\_-and-the-\\_return-to-village-and-rehabilitation-program\\_-in-turkey.en.mfa](http://www.mfa.gov.tr/internally-displaced-persons-_idps_-and-the-_return-to-village-and-rehabilitation-program_-in-turkey.en.mfa)).

to benefit IDPs. This is true for Colombia, where significant progress has been made since 1994, when the government was taking an ad hoc approach to IDPs. Following the first visit of RSG Deng in 1994, the government began to recognize the existence of internal displacement and its responsibility to address it as a national priority at all levels of government through policies, laws, national plans of action and ministerial/municipal/departmental institutions adopted since 1995. However, Colombia's Constitutional Court, in its landmark Decision T-025 of 2004, concluded that the state of assistance to and protection of IDPs in Colombia constituted an "unconstitutional state of affairs"<sup>30</sup> reflected in part in the government's lack of implementation of the public policy for assisting IDPs contained in Law 387 of 1997, including the policy's provision for awareness-raising activities for civil society about the magnitude of internal displacement. The Court also found that "the displaced population lacks timely and complete information about its rights, the institutional offer, the procedures and requirements to gain access to it, and the institutions in charge of its provision."<sup>31</sup>

Pakistan has become more engaged in raising national awareness of natural disaster-induced internal displacement in recent years, but it has been inconsistent in the way in which it has raised awareness of those displaced by conflict. Throughout much of 2009, for example, the government referred to many of those displaced in the fighting in South Waziristan as "dislocated" rather than displaced persons<sup>32</sup> and there has been a reluctance to

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<sup>30</sup> Republic of Colombia, Colombian Constitutional Court, Decision T-025 of 2004, adopted by the third chamber of the Court, composed of Manuel José Cepeda-Espinosa, Jaime Córdoba-Triviño and Rodrigo Escobar-Gil.

<sup>31</sup> *Ibid.*, 6.3.1.v.b, d. For full text of Decision T-025 and for further analysis, see Rodolfo Arango Rivadeneira, *Judicial Protection of Internally Displaced Persons: The Colombian Experience* (Washington, D.C.: Brookings-Bern Project on Internal Displacement, November 2009) ([www.brookings.edu/papers/2009/11\\_judicial\\_protection\\_arango.aspx](http://www.brookings.edu/papers/2009/11_judicial_protection_arango.aspx)).

<sup>32</sup> See, for example, People's Daily Online, "12,700 families in NW Pakistan dislocated as troops advance on Taliban," 19 October 2009 (<http://english.people.com.cn/90001/90777/90851/6787316.html>).

acknowledge displacement in Balochistan. However, on other occasions, Prime Minister Syed Yusuf Raza Gilani has been very active in raising national awareness of those displaced by conflict in 2009 and by the flooding in Pakistan in 2010, including by reaching out to Pakistanis, including the Pakistani diaspora, for financial support for the affected populations. For example, at political and economic conferences in 2009 in the wake of what was at the time the largest population movement in the country since the 1948 partition, the prime minister called attention to the plight of IDPs and stressed the government's commitment to assist them as well as to fight terrorism. At the All Parties Conference in May 2009, Gilani said that "the displaced people of Swat are the guests of the entire country. They should not consider themselves as dejected, because the government honours their sacrifice."<sup>33</sup> In June he stressed that assisting IDPs was "of the highest priority," reportedly stating: "We must plan now and set aside resources for the rehabilitation of IDPs, reconstruction of affected infrastructure and revival of economic activities on their return and hope this will happen in near future."<sup>34</sup> Despite these positive developments, there are questions as to the government's intentions to pursue a rights-based approach to IDPs.

In Afghanistan, the government's record over the past several years on acknowledging the existence of internal displacement and its responsibility to address it as a national priority is mixed. President Karzai has "repeatedly emphasized that reducing IDP caseload is a national priority," but that claim was made by an international adviser to the Ministry of Rural Development

and Rehabilitation (MRRD).<sup>35</sup> Moreover, the statement seemingly has not been translated to concrete action or public awareness campaigns. In 2003, a report by the MRRD and the Ministry of Refugees and Repatriation stated that "the State of Afghanistan is responsible for protection and durable solutions for the IDP population in the country with support from specialised agencies such as UNHCR, IOM and with financial assistance by the international community."<sup>36</sup> In the Refugees, Returnees and IDP Sector Strategy of the Afghanistan National Development Strategy 1387–1391 (2008–2013), the government acknowledges its responsibility for IDPs but also calls on international actors to complement government efforts.<sup>37</sup> In 2010, the UN Assistance Mission in Afghanistan and the Afghanistan Independent Human Rights Commission called on the government of Afghanistan to "raise public awareness about procedures for civilians affected by the conflict, including on compensation and accountability,"<sup>38</sup> a population that would include IDPs.

<sup>33</sup> Government of the Islamic Republic of Pakistan, Ministry of Defence, "APC: Political Leadership Resolves to Unite Nation against Terrorism," 18 May 2009 ([www.defence.pk/forums/pakistans-war/26869-apc-political-leadership-resolves-unite-nation-against-terrorism.html](http://www.defence.pk/forums/pakistans-war/26869-apc-political-leadership-resolves-unite-nation-against-terrorism.html)).

<sup>34</sup> TTKN NewsDesk, "Prime Minister Syed Yusuf Raza Gilani – Talk about Internally Displaced Persons," 5 June 2009 ([www.ttkn.com/politics/prime-minister-syed-yusuf-raza-gilani-talk-about-internally-displaced-persons-353.html](http://www.ttkn.com/politics/prime-minister-syed-yusuf-raza-gilani-talk-about-internally-displaced-persons-353.html)).

<sup>35</sup> Pete Spink, "A Closing Window? Are Afghanistan's IDPs Being Forgotten?" *Forced Migration Review*, no. 21 (September 2004), p. 36 ([www.fmreview.org/FMRpdfs/FMR21/FMR2113.pdf](http://www.fmreview.org/FMRpdfs/FMR21/FMR2113.pdf)).

<sup>36</sup> Islamic Republic of Afghanistan, Ministry of Rural Development and Rehabilitation and Ministry of Refugees and Repatriation, "Towards Definite Solutions for IDPs in the South: A Regional Operation Plan," October 2003 ([www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/B057C8B9AB7B8DC5802570B8005A6F8D?OpenDocument#1.11.5](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/B057C8B9AB7B8DC5802570B8005A6F8D?OpenDocument#1.11.5)).

<sup>37</sup> Islamic Republic of Afghanistan, Afghanistan National Development Strategy Secretariat, *Afghanistan National Development Strategy 1387–1391 (2008–2013): A Strategy for Security, Governance, Economic Growth and Poverty Reduction* ([www.undp.org.af/publications/KeyDocuments/ANDS\\_Full\\_Eng.pdf](http://www.undp.org.af/publications/KeyDocuments/ANDS_Full_Eng.pdf)).

<sup>38</sup> UN Assistance Mission in Afghanistan and the Afghanistan Independent Human Rights Commission, *Afghanistan: Annual Report on Protection of Civilians in Armed Conflict 2010*, Kabul, March 2011 (<http://unama.unmissions.org/Portals/UNAMA/human%20rights/March%20PoC%20Annual%20Report%20Final.pdf>), p. ix.

## Conclusion

When displacement occurs, a government's public acknowledgment of its existence and of the government's responsibility to address it is an important first step in protecting and assisting IDPs. In comparison with the eleven other benchmarks, raising awareness of IDPs appears to be a relatively easy measure to take. Even so, it is a step that not all of the countries surveyed have managed to take, at least not in response to conflict-induced displacement. The case of Myanmar illustrates how a government's refusal to acknowledge displacement, in this case of conflict-induced IDPs, ensures that for any such ignored group of IDPs, government action on all of the other benchmarks also is a non-starter.

In cases in which internal displacement was acknowledged, whether or not the government admitted responsibility for causing it, government efforts to raise awareness of internal displacement through public statements was not always a useful indicator of the government's commitment to upholding the basic human rights of IDPs, as in the cases of Pakistan and Sri Lanka. Across the countries surveyed, governments at different times and in very different situations have tried to raise awareness of internal displacement within their

countries. Sometimes their efforts have been belated, getting off the ground only several years after displacement first occurred or only as a response to political developments or external pressure; sometimes efforts have been sporadic, with government engagement ebbing and flowing over the years. In cases such as Colombia, Kenya, Turkey, Yemen and others, the influence of the Representative of the UN Secretary-General on Internally Displaced Persons on national authorities seeking to address internal displacement through policies cannot be underestimated.

While there is always a risk in raising expectations with promises that may not be kept, acknowledgment of the problem of internal displacement by a high-level government official is an essential first step to addressing it. Moreover, by raising awareness that IDPs have rights that must be respected, governments can send a strong message recognizing their national responsibility to IDPs to IDPs themselves, communities and government officials at all levels; that, in turn, can help to trigger more concrete measures to address internal displacement. But governments have different motivations and levels of sincerity in acknowledging internal displacement, if they do, which are reflected in their subsequent actions.



Eastern Province, Sri Lanka / An internally displaced woman and baby, Sahanagama site, Pulmoddai, Trincomalee.  
Photo: UNHCR/ I. Colijn / May 2009



## Benchmark 3

### Data Collection on Internally Displaced Persons

#### ***Do the national authorities collect data on the number and conditions of IDPs?***

Collecting data on the number, location, condition, needs and vulnerabilities of IDPs is essential to developing programs to assist IDPs, to facilitate durable solutions and to assess the extent of displacement. Data collection should begin at the moment of displacement and should continue, as systematically as possible, until sustainable, durable solutions have been achieved. Data collection is not identical to registration, but registration may serve as one source of information among others.

*“IDP Profiling serves many purposes. It is a tool to enhance delivery of humanitarian goods and humanitarian services. It is a tool that may help to enhance protection and is an important element of protection. It is a tool that helps to enhance prospects for durable solutions. In other words, profiling—well done—is a tool that can facilitate comprehensive and holistic approaches to IDP situations.”*

—Walter Kälin, former Special Representative to the Secretary-General on the Human Rights of IDPs (2004–10), speaking at the first international conference on IDP profiling, “Needs beyond Numbers,” hosted by Joint IDP Profiling Service, 23 May 2011, Geneva

The Framework for National Responsibility emphasizes the importance of collecting data that are disaggregated by age, gender and other key indicators so that the specific needs of particular groups of IDPs—such as women heads of household, unaccompanied minors, the elderly, persons with disabilities, ethnic minorities and indigenous persons—are assessed and addressed.

Data collection efforts also must encompass all IDPs whether they have been uprooted by conflict, disaster or other causes and cover IDPs whether they are in camps or non-camp settings. Efforts must be made to collect data and profile the needs of IDPs in all areas of a country, including any areas controlled by nonstate actors. Benchmark 3 emphasizes that efforts to collect data on IDPs must not in any way jeopardize their security, protection and freedom of movement. The Framework further notes that while government authorities bear primary responsibility for compiling information on IDPs, it often can be valuable to enlist international organizations, local NGOs and researchers to contribute to data collection efforts.

The importance of disaggregating data by age, gender and other key indicators of potential vulnerability has been increasingly recognized by UN agencies and NGOs and incorporated into assessment tools, as discussed below. The interagency Joint IDP Profiling Services—an interagency service initiated by the Danish Refugee Council, the International Office for Migration, NRC-IDMC, OCHA, UN Population Fund (UNFPA) and UNHCR and currently hosted at UNHCR—serves as a model of international efforts to improve data collection on IDP situations; its work on providing disaggregated data on internally displaced populations is to be lauded and supported.

In practice, collecting data can be a difficult enterprise, particularly in the midst of a conflict or when IDPs are dispersed within a community rather than being housed in a camp or temporary shelter. Data collection and monitoring requires acknowledging the occurrence of displacement, safe and unimpeded access—which may be difficult or impossible, particularly in conflict situations particularly—to the displaced as well as considerable resources and technical expertise. Sometimes, due to concerns about their security, IDPs may not want to identify themselves or to be counted as such or draw attention to themselves by participating in assessments or registration efforts. Estimating the number and the needs of IDPs living in non-camp settings, including urban areas, is especially daunting and complex, and

methodologies for doing so are still being developed. The need for improved data collection and monitoring is evident in an observation of IDMC relating to the countries that it monitors: “In 2010, IDPs’ needs were consistently assessed in only 40 per cent of countries monitored.”<sup>1</sup> Yet without data on the number, location, conditions and needs of IDPs, it is very difficult to ensure that programs target and are relevant to IDPs. Even when estimates of the total number of IDPs are made, such data are rarely complete and adequately disaggregated. IDP data also are not usually updated frequently enough to reflect changes in a situation; at best, data are updated yearly, where annual IDP registration exercises may take place.

Other complications to data collection and monitoring methods include that the situation and needs of IDPs often change over time. IDPs may be displaced multiple times by external events; moreover, IDPs may move from place to place as a way of coping with the challenges that they face. For example, they may go back to their communities for a while and then return to their place of displacement, or they may test various locations before deciding to stay a while in a given area. Less often, governments set up temporary camps to house IDPs; in those cases, counting or estimating the number of IDPs is usually easier than when they are dispersed among the population. But often camp populations also are dynamic: IDPs move in and out in response to perceived security, livelihood possibilities and government policies.

Unlike the term “refugee,” the term “internally displaced person” does not denote a legal status; it is only a descriptive term. A person is “recognized” as a refugee if he or she is found to meet certain criteria specified in the 1951 Refugee Convention and its 1967 protocol, in particular, a “well-founded fear of persecution” or being outside of their country and unable to access the protection of their government. Being outside of their country, such persons require international protection.

<sup>1</sup> IDMC, *Internal Displacement: Global Overview of Trends and Developments in 2010*, March 2011, p. 9 ([www.internal-displacement.org](http://www.internal-displacement.org)).

There is no corresponding need to confer IDPs with a special status under international law because they remain within their country, under the sovereignty of their state, and in principle they should benefit from the state’s protection. Even so, many governments have developed systems to “register” IDPs and in some cases to confer them with a special status under national legislation. As the analysis below illustrates, registration has been central to efforts to collect data on IDPs. But registration systems are necessary only when they are used to determine eligibility for assistance. When there is no assistance, or when assistance is given in a discriminatory manner, there is little incentive for IDPs to register. Reluctance to come forward to be registered is especially acute in conflict situations and in areas where the government is perceived as contributing to the conditions causing displacement. Therefore, under-registration is a common phenomenon. When assistance is provided to IDPs registered with the government or in some cases with an international actor, IDPs are more likely to register. In such cases, there may be an incentive for people to register as IDPs in a camp in order to receive assistance even though they may be staying in another location or to register in multiple locations. There may also be cases where over-registration serves political purposes, as in Serbia or Azerbaijan.

In order to facilitate government, humanitarian and development planning and assistance and advocacy efforts to improve the situation of internally displaced populations, profiling should take place during all phases of displacement. IDP profiling is a collaborative exercise consisting of identification of internally displaced groups or individuals through data collection (including counting) and analysis in order to take action and advocate on behalf of the IDPs, to protect and assist them and eventually, to help bring about a solution to their displacement. Profiles of internal displacement situations should include the following core data:

—Number of IDPs disaggregated by age and sex, even if the numbers are only estimates; in many cases data are available only in certain locations.

—Current location and location of habitual residence, as methodology allows.

Whenever possible additional data could be collected—for example, on the following:

- Cause(s) of displacement
- Patterns of displacement
- Protection concerns
- Humanitarian Needs
- Potential durable solutions

The need for comprehensive guidance on collection and analysis of IDP-related information was realized by the Inter-Agency Standing Committee (IASC) in 2004 when a decision was taken to develop an interagency framework for these activities. As a result, *Guidance on Profiling Internally Displaced Persons* was published, following a development process led by the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) and Displacement and Protection Support Section of the UN Office for the Coordination of Humanitarian Affairs (OCHA), with support from the UN High Commissioner for Refugees (UNHCR). The Danish Refugee Council, which has for a number of years been engaged in profiling IDPs and other displacement-affected communities that it works with, created an IDP profiling “toolbox” in 2008 used by individuals and agencies that conduct profiling activities worldwide. At the time of writing, the Joint IDP Profiling Service was in the process of consolidating a “kit” of additional best practices in profiling.<sup>2</sup>

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<sup>2</sup> IDMC and OCHA, *Guidance on Profiling Internally Displaced Persons*, April 2008. Danish Refugee Council, *Internal Displacement Profiling Toolbox*, January 2008. For the JIPS kit, see [www.idp-profiling.org](http://www.idp-profiling.org).

## Overview of research findings

None of the governments surveyed has a completely reliable and inclusive system of data collection. Moreover, analysis of the fifteen countries surveyed reveals great variation in data collection practices. It must be acknowledged at the outset that baseline population data are often inadequate or markedly outdated in many of these countries. For example, in Yemen, the national authorities only recently (late 2009–2010) began to collect data on the number and conditions of IDPs. However, that must be seen in the context of the larger gaps in information about the situation in conflict-affected areas, where the government reported no information regarding civilian casualties, humanitarian needs, number of IDPs or property damage.<sup>3</sup> In Sudan, census data on IDPs from 2008 are flawed and there are no comprehensive statistics available from the national authorities on the total number and conditions of IDPs.

With some notable exceptions, it appears that the countries whose governments have made the greatest effort to collect information on IDPs are those where displacement is both large scale and protracted and where the government has developed some capacity to carry out registration exercises.

In most countries, data collection and the provision of assistance are tied to registration of IDPs and there is significant variation in the extent to which registration accurately reflects the number of people displaced—which affects IDPs’ ability to receive protection and assistance. When data are collected by national authorities solely or in concert with international assistance, data often fall short of capturing the entire IDP population and usually fail to account for the fluid nature of displacement, including returns and secondary and multiple displacements. Even in countries with a robust registration system, such as Georgia, it has proven difficult

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<sup>3</sup> Human Rights Watch, “Invisible Civilians: The Challenge of Humanitarian Access in Yemen’s Forgotten War,” 19 November 2008, p. 14 ([www.hrw.org/en/reports/2008/11/18/invisible-civilians-0](http://www.hrw.org/en/reports/2008/11/18/invisible-civilians-0)).

to keep track of the more than 50 percent of IDPs who live in private residences instead of in collective accommodations and to obtain information on their needs, vulnerabilities and capacities.<sup>4</sup>

In Yemen, while some registration of IDPs was completed in accessible areas, it often neglected to take family size into account, leaving larger families with inadequate food supplies.<sup>5</sup> Loss of IDPs' documentation during flight also hampered registration.<sup>6</sup> According to UNICEF, by July 2009 only 22 percent of IDPs were registered as such due to various impediments, leaving those who were not designated as IDPs unable to access camps or aid.<sup>7</sup> A comprehensive needs assessment, which was to be conducted by the international community in areas affected by the conflict, was requested by the Yemeni government in September 2008, but actual undertaking of the assessment was effectively blocked by the authorities until July 2009.<sup>8</sup> A turning point was reached with the launch in February 2010 of a uniform national IDP registration system in Sana'a and the governorates of Amran and Hajjah.<sup>9</sup> With the help of UNHCR and the cooperation of the central and regional authorities, training and capacity-building programs were undertaken to support the rollout of an IDP registration system.<sup>10</sup> If fully implemented, the system would focus on those uprooted by the conflict and would provide reliable data on IDPs and their living conditions for the first time. However, in March 2010, the government decided to stop registering new arriv-

als, in particular due to a lack of resources for providing them with humanitarian assistance; currently it is verifying existing registers, while a number of IDPs remain unregistered.<sup>11</sup>

The general registration of IDPs without having a specific purpose for registration entails the possibility of overlooking IDPs while creating an IDP status through registration.<sup>12</sup> In Sri Lanka,<sup>13</sup> enumeration of IDPs is tied to registration, and the government generally registers the conflict-induced "new IDP" caseload. However, data collection is neither systematic nor uniform. The Government Agent is responsible for IDP registration at the district level. IDPs are registered whether they are living in camps, with host families or in emergency transit sites; this is considered to result in relatively efficient and accurate district-wide enumeration of IDPs. But the government has been accused of misrepresenting reality by using incorrect terminology that suggests that IDPs in transit and living with host families have achieved a durable solution.

In instances in which national authorities do recognize internal displacement and collect data, the provision of assistance is usually based on registration, which in turn is based on official recognition of "IDP status" under national legislation. That means that registration is often politicized, but often it also is flawed for other reasons because of the lack of capacity of government agencies to collect data. The politicization of who is granted IDP status and/or who is registered is evident in the exclusion of people whose displacement is caused by particular events. For example, in Colombia, the definition of "IDP" contained in Article 1 of Law No. 387 on displacement caused by violence is narrower than the definition in the Guiding Principles as it excludes those displaced by natural disasters or development projects. The government of Colombia excludes from

<sup>4</sup> See further the Georgia case study in chapter 2 of this volume.

<sup>5</sup> IDMC, *Yemen: Constrained Response to Protection Needs of IDPs and Returnees*, July 2009, p. 89 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>6</sup> IRIN, "Yemen: No ID, No Registration as an IDP," 4 April 2010 ([www.irinnews.org/Report.aspx?ReportId=88742](http://www.irinnews.org/Report.aspx?ReportId=88742)).

<sup>7</sup> IDMC, *Yemen: Constrained Response to Protection Needs of IDPs and Returnees* p. 100.

<sup>8</sup> UNHCR, "Yemen Fact Sheet: June," 30 June 2009 ([www.internal-displacement.org](http://www.internal-displacement.org)) and UNHCR, "UNHCR-IDMC Correspondence," July 2009.

<sup>9</sup> UNHCR, "Yemen Fact Sheet: February 2010," March 2010, p. 2 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>10</sup> Ibid.

<sup>11</sup> IDMC, *Yemen: IDPs Facing International Neglect*, August 2010, p. 11 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>12</sup> E-mail message from UNHCR official, August 2010.

<sup>13</sup> See further the Sri Lanka case study in chapter 2 of this volume.

its registration rolls intra-urban IDPs and those internally displaced by anti-narcotic crop fumigations and by agribusiness and mining megaprojects, and it places temporal limitations on who is eligible to register as an IDP, which also exclude many IDPs from assistance.<sup>14</sup> The Office of the Inspector General for Colombia (Procuraduría General de la Nación) has acknowledged that there is a high rate of under-registration overall and that it had in fact worsened since the Constitutional Court issued Decision T-05 in 2004 recognizing the issue.<sup>15</sup> A national survey by the court-mandated Civil

Society Follow-up Commission on the Public Policy for Internal Displacement (Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado) revealed that 34.3 percent of IDPs were not included in the government registry (Registro Único de Población Desplazada, or RUPD), as some IDPs did not declare their displacement due to lack of information or fear of coming forward or were rejected when attempting to register.<sup>16</sup> The above-mentioned reasons are among those accounting for the significant disparity between government and NGO reports on the number of IDPs in the country, but other reasons include differences in starting date—government figures are cumulative since 2000 for the RUPD and since 1985 for the Observatory on Human Rights and Displacement (Consultaría para los Derechos Humanos y el Desplazamiento, or CODHES)—and the way in which multiple displacements are counted. As of the end of 2010, while the government of Colombia reported a total of 3.6 million individuals, the principal Colombian human rights organization, the Observatory on Human Rights and Displacement, reported nearly 5.2 million IDPs.<sup>17</sup> The

<sup>14</sup> See further UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Mission to Colombia, A/HRC/4/38/Add.3*, 24 January 2007, paras. 30–33, pp. 10–11 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)); Rodolfo Arango Rivadeneira, ed., *Judicial Protection of Internally Displaced Persons: The Colombian Experience* (Washington, D.C.: Brookings-Bern Project on Internal Displacement, November 2009) ([www.brookings.edu/papers/2009/11\\_judicial\\_protection\\_arango.aspx](http://www.brookings.edu/papers/2009/11_judicial_protection_arango.aspx)); Analysis and reporting by the Comisión de Seguimiento based on its Second National Verification Survey (2008), in *Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado, El Reto ante la Tragedia Humanitaria del Desplazamiento Forzado: Garantizar la Observancia de los Derechos de la Población Desplazada*, vol. 2, April 2009, and its III National Verification Survey (2010), in *El Reto ante la Tragedia Humanitaria del Desplazamiento Forzado: Garantizar La Observancia de Los Derechos de la Población Desplazada II*, vol. 9, June 2011. For these reports, see “Comisión de seguimiento a la política pública sobre desplazamiento forzado,” ([www.codhes.org/index.php?option=com\\_content&task=view&id=39&Itemid=52](http://www.codhes.org/index.php?option=com_content&task=view&id=39&Itemid=52)).

<sup>15</sup> Annex 5, Decision T-05 of 2004. Reporting on the government’s fulfillment of Decision T-05 of 2004 and Awards 176, 177 and 178 of 2005 and Awards 218 and 266 of 2006, the Office of the Inspector General of Colombia noted: “Obstacles persist in the displaced population’s access to the Single Registration System. It is alarming for [Acción Social] to reject declarations made by population which has been displaced as a consequence of opposing the national government’s policies, or because it has been forced to abandon its residence by paramilitary groups which, according to [Acción Social] have already been demobilized. Likewise, the persistence of the high rates of rejection for ‘belatedness’ [is alarming]” (Conclusion

9 of the Inspector General’s Sixth Report, submitted to the Constitutional Court on 27 October 2006). Cited and translated in Clara Elena Reales, “Design and Implementation of the Orders Issued in Decision T-025 of 2004: An Assessment of the Process,” in *Judicial Protection of Internally Displaced Persons: The Colombian Experience*, p. 59. For the full report by the Office of the Inspector General in the original Spanish see Procuraduría General de la Nación, *Sexto informe de la Procuraduría General de la Nación sobre cumplimiento de las órdenes contenidas en la Sentencia T-025 de 2004 y los autos 176, 177 y 178 del 29 de agosto de 2005 y 218 y 266 de 2006 de la Corte Constitucional*, Bogotá, 2006.

<sup>16</sup> As reported in the Second National Verification Survey (II Encuesta Nacional de Verificación) in 2008: Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado, *El Reto ante la Tragedia Humanitaria del Desplazamiento Forzado: Garantizar la Observancia de los Derechos de la Población Desplazada*, vol. 2, April 2009, p. 50, available under “Comisión de Seguimiento” at [www.codhes.org](http://www.codhes.org).

<sup>17</sup> IDMC, *Internal Displacement Global Overview of Trends and Developments in 2010*, pp. 71–72 ([www.internal-displacement.org](http://www.internal-displacement.org)). See also slightly lower figures reported

situation is further complicated by the fact that there is no mechanism to re-register in the case of repeated displacements or to de-register when people are no longer displaced. Authorities also do not record the number of rejections, the reasons for rejection, the number of appeals or the number of responses to appeals.<sup>18</sup>

In many cases governments have worked with UN agencies on specific initiatives in data collection and capacity building. IDP data collection is often hindered because it is undertaken by ministries that are considered to be among the weakest in terms of political clout and funding and in countries that are experiencing ongoing conflict or generalized violence. Hence, in many of these countries, UN or other international agencies are involved in assisting the relevant institutional focal points with data collection. For example, in Sudan, available estimates of and information on IDPs are developed by UN agencies and international organizations, including the UN High Commissioner for Refugees, the UN Office for the Coordination of Humanitarian Affairs and the International Organization for Migration, while certain data on returnees to Southern Sudan are collected jointly by IOM and the Southern Sudan Relief and Rehabilitation Commission of the Government of Southern Sudan. Since 2003, IOM has provided technical and financial assistance to the government of Iraq and the Kurdish Regional Government for regular data collection on a range of disaggregated characteristics for conflict IDPs.<sup>19</sup> In June 2008 the government of Kenya collaborated with the UN High Commissioner for Refugees (UNHCR) to conduct a profiling exercise to

determine the number of IDPs, and it has worked with the UN Office for the Coordination of Humanitarian Affairs (OCHA) on disaster management and information sharing and with the United Nations Development Program (UNDP) on early recovery initiatives.<sup>20</sup>

Humanitarian access problems for international actors assisting national authorities complicate the collection of accurate data, as in Yemen, where the government began to collect data on IDPs in only 2009, in cooperation with UNHCR. Access barriers point to the inability of national authorities to fulfill their obligations to protect and assist IDPs and to facilitate international assistance under international humanitarian law, as recognized in the Guiding Principles. In Sri Lanka, UN agencies, namely UNHCR, aggregate data collected from district levels in various displacement areas to track displacement patterns.<sup>21</sup>

The case of Afghanistan<sup>22</sup> further illustrates access issues that impede accurate and comprehensive data collection, in addition to a whole host of other challenges affecting national and international efforts to count and profile IDPs. However, it also serves as an example of the government's efforts to work with international organizations to improve IDP data collection and reporting. The Ministry of Refugees and Repatriation (MoRR), including its various provincial departments (Department of Refugees and Repatriation, or DoRRs), collects data on and profiles IDPs through its position as co-chair, with UNHCR, of the National IDP Task Force. The ministry relies on its DoRRs, relevant ministries, local authorities, UN agencies, the Afghanistan Independent Human Rights Commission and NGOs for data collection and reporting. Established in 2008 as a subgroup of the Afghanistan Protection Cluster, the National IDP Task Force includes other national and international partners and undertakes monitoring

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earlier in 2010 by the government and by CODHES: Government of Colombia, *Informe del Gobierno Nacional a la Corte Constitucional*, 31 July 2010 ([www.internal-displacement.org](http://www.internal-displacement.org)); and CODHES, *Salto Estratégico o Salto al Vacío?* Boletín Informativo, no. 76, 27 January 2010 ([www.codhes.org](http://www.codhes.org)).

<sup>18</sup> Andrés Celis, "Protection of the Internally Displaced by Constitutional Justice: The Role of the Constitutional Court in Colombia," in *Judicial Protection of Internally Displaced Persons: The Colombian Experience*, pp. 131–32.

<sup>19</sup> In addition, IOM has provided legal and technical expertise to Iraqi property restitution mechanisms, including the Commission for Resolution of Real Property Disputes.

<sup>20</sup> See further, Kenya case study in chapter 2 of this volume.

<sup>21</sup> See further, Sri Lanka case study in chapter 2 of this volume.

<sup>22</sup> See further, Afghanistan case study in chapter 2 of this volume.

and profiling of three types of IDPs in Afghanistan: conflict-induced, natural-disaster induced, and protracted-displacement IDPs. While task force data are used for planning purposes, it is commonly accepted that the data do not accurately reflect the displacement situation in Afghanistan. There are various challenges to ensuring that data are both accurate and comprehensive, including the temporary nature of displacement; insecurity and the lack of access to IDPs, particularly in the southern provinces of Helmand, Kandahar and Uruzgan; and the various methodologies applied to determine who is an internally displaced person and who is an economic migrant and when displacement begins and ends. The National IDP Task Force has sought to redress problems and discrepancies in data collection and reporting on IDPs in order to provide them with greater protection and assistance—including by establishing the ad hoc Working Group on IDP Data Reconciliation and Harmonization with technical staff from UNHCR and the MoRR which has sought to streamline data collection and reporting methodologies.<sup>23</sup> However, the MoRR, DoRRs and UNHCR continue to face serious challenges in data collection.

Some governments do not appear to collect data on IDPs, as in Myanmar and the Democratic Republic of the Congo (DRC). In the Central African Republic, while the government does not collect IDP data it does facilitate the collection of data by international actors and is working with UNHCR on a pilot registration project in some areas.<sup>24</sup> The government of Uganda collects data on IDPs, but there is no standardized system

for data collection across districts—a problem that has also been reported in Nepal and Sri Lanka. In some cases, as in DRC and Sudan, current IDP figures are provided by international agencies. In still other cases, as in Iraq, registration of IDPs may be suspended and restarted in response to particular policies.<sup>25</sup>

Government authorities may discriminate against certain populations of IDPs for political reasons, as evident in their data collection or registration procedures. Until the adoption of the National Policy on Internally Displaced Persons (2007), the government of Nepal registered only IDPs displaced by Maoist violence, while those displaced by government security forces were not recognized as IDPs.<sup>26</sup> With the adoption of the 2007 policy, the government began to register IDPs displaced by both government security forces and Maoists, although it does not officially recognize as IDPs those displaced due to ethnic conflict in Terai. Similarly, the Pakistani government registers IDPs in the National Database and Registration Authority but does not register IDPs from areas not recognized as conflict areas or those from tribes that it considers to be associated with insurgents. In Afghanistan, politics affects the accuracy of the number of IDPs reported and the provision of protection and assistance, illustrating the complexity of the IDP issue in the country. According to UNHCR in 2006, “there is much at stake for IDP leaders when determining the numbers of people in their settlements” because aid distribution amounts are dependent on those figures. In addition, poor individuals often have presented themselves as IDPs, especially in the “less official camps” in Panjwayi and Maywand, “and received equal benefits as the ‘genuine’ Kuchi IDPs.”<sup>27</sup> Another politicized factor

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<sup>23</sup> IRIN, “Afghanistan: Little Relief for Growing Number of Conflict IDPs,” 14 October 2010 ([www.irinnews.org/report.aspx?reportid=90768](http://www.irinnews.org/report.aspx?reportid=90768)).

<sup>24</sup> One of the objectives of the National Standing Committee in the Central African Republic is to collect data on the number and profile of IDPs in the country; however, there was no evidence at the time of writing that it had done so. See Erin Mooney, *Examen du cadre normative de la République centrafricaine relatif à la protection des personnes déplacées à l'intérieur de leur propre pays : Audit juridique*, Brookings-Bern Project on Internal Displacement, February 2011, pp. 21–23 ([www.brookings.edu/reports/2010/11\\_car\\_audit\\_juridique.aspx](http://www.brookings.edu/reports/2010/11_car_audit_juridique.aspx)).

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<sup>25</sup> In Iraq, IDP registration was stopped in 2009 and restarted in 2010 to enable people to register as IDPs so that they could subsequently register as returnees.

<sup>26</sup> IDMC, *Nepal: Failed Implementation of IDP Policy Leaves Many Unassisted*, January 2010 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>27</sup> Asia Consultants International, *Durable Solutions for Kuchi IDPs in the South of Afghanistan: Options and Opportunities*, commissioned for UNHCR Kandahar,

hindering the collection of data and profiling of IDPs is discrimination on the basis of sectarian, ethnic or tribal affiliation, as in Iraq in 2008 and 2009, where such discrimination has been documented as preventing IDPs from registering.<sup>28</sup> Registration of new arrivals has also been restricted. For example, in Iraq new arrivals were blocked from entering some areas because of security concerns or strained resources, and in Yemen registration was suspended due to lack of resources for providing humanitarian assistance. Most countries that collect data on IDPs focus on IDPs displaced by conflict, and few have systems in place to collect data on IDPs displaced by disasters.

In all the cases in which IDP registration occurs, some of the obstacles to registration point to the failure of national authorities to fulfill their other responsibilities recognized in the UN Guiding Principles on Internal Displacement. For example, in some of the countries studied, IDPs do not want to self-identify as such for fear of being recognized or identified by the very authorities who had a hand in their displacement. IDPs also are often uninformed of registration procedures and/or government assistance schemes for IDPs; they may be subject to a heavy burden of proof to register; they may be unable to register or receive assistance owing to state requirements that they return to their place of origin to do so or that they possess documentation that has been lost or left behind in the place of origin; or they may not believe that the government will assist them or provide them with sufficient aid. IDPs' rights to protection and assistance are violated as a result of such obstacles to registration.

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November 2006 ([www.unhcr.org/46c993942.pdf](http://www.unhcr.org/46c993942.pdf)).

<sup>28</sup> IOM, *Iraq Return and Displacement: 2008 Mid-Year Review*, 17 July 2008, pp. 5–6 (<http://reliefweb.int/node/273534>); IOM, *Iraq Displacement 2007: Mid-Year in Review*, p. 4 ([www.iom.int/jahia/webdav/shared/shared/mainsite/published\\_docs/studies\\_and\\_reports/midyear\\_review\\_iraq\\_2007.pdf](http://www.iom.int/jahia/webdav/shared/shared/mainsite/published_docs/studies_and_reports/midyear_review_iraq_2007.pdf)); IOM, *Iraq Displacement 2007: Year in Review*, p. 5 (<http://reliefweb.int/node/254120>); IDP Working Group, *Internally Displaced Persons in Iraq: Update, 24 March 2008*, 24 March 2008 (<http://reliefweb.int/node/261077>).

The role of the Representative of the UN Secretary-General on Internally Displaced Persons (human rights of internRSG) in influencing governments to establish or work to improve IDP data collection and reporting methods must be acknowledged. For example, despite recognizing the severity of the problem, the Colombian government did not register IDPs or have data on them until after 1994, following the engagement of the RSG. Until recently in Turkey, after more than one decade of inaction on IDPs on the part of the government, there were no official statistics or efforts to account for IDPs, who are mostly Kurds. One of the main recommendations of RSG Francis Deng during his mission to Turkey in 2002 was that the government collect data on the nature and scale of the problem of internal displacement. In 2005, the Turkish government commissioned the Institute of Population Studies at Hacettepe University to conduct a survey to assess the size and needs of the internally displaced population. Conducted between December 2004 and June 2006, the Turkey Migration and Internally Displaced Population Survey found that an estimated 950,000 to 1,200,000 conflict-induced IDPs were displaced between 1986 and 2005 in fourteen provinces during a declared state of emergency.<sup>29</sup> The survey also examined the socioeconomic characteristics of IDPs before and after migration/displacement, reasons for migration/displacement, and intentions regarding return and future migration as well as whether they were aware of the Return to Village and Rehabilitation Project and compensation laws and whether they had filed for compensation.<sup>30</sup> The Hacettepe study, by documenting the large scale of displacement, seemed to open the door to development of policies to assist IDPs.<sup>31</sup> In 2007, RSG Walter Kälin recommended that

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<sup>29</sup> IDMC, *Turkey: Need for Continued Improvement in Response to Protracted Displacement: A Profile of the Internal Displacement Situation*, 26 October 2009, p. 42 ([www.hips.hacettepe.edu.tr/eng/press\\_release.pdf](http://www.hips.hacettepe.edu.tr/eng/press_release.pdf)).

<sup>30</sup> Hacettepe University, "Turkey Migration and Internally Displaced Population Survey," press release, 6 December 2006 ([www.hips.hacettepe.edu.tr/eng/press\\_release.pdf](http://www.hips.hacettepe.edu.tr/eng/press_release.pdf)).

<sup>31</sup> However, it is worth noting that the quantitative portion of the study had yet to be released at the time of writing.



the government of Afghanistan undertake the comprehensive national assessment and profiling of IDPs. On the basis of the RSG's recommendation, UNHCR, under the auspices of the National IDP Task Force and in close cooperation with the Ministry of Refugees and Repatriation, profiled IDPs based on surveys that had been undertaken, in particular those by UNHCR offices in the field, by provincial Departments of Refugees and Repatriation, and by the UN Assistance Mission in Afghanistan (UNAMA). The MoRR endorsed the report, entitled the *National Profile on Internally Displaced Persons (IDPs) in Afghanistan*, in November 2008. The profile identified the number of IDPs, cause of displacement, location of displacement and assessed protection and assistance needs. The report did not profile IDPs displaced by recent droughts or "battle-affected" IDPs displaced by fighting between the National Army and antigovernment groups.<sup>32</sup> However, given the challenges described above, the figures in the profile are not fully comprehensive and accurate.

While not a focus of the research, it is worth noting that civil society groups often play an important role in the collection of data on IDPs—and often discrepancies exist between their data and the data of national authorities. For example, as noted above, the Observatory on Human Rights and Displacement in Colombia collects data that are much broader in scope than those of the government as it includes those displaced by government counterinsurgency operations and anti-narcotic crop fumigations and uses a different temporal cut-off point than the government. In the case of Myanmar, civil society organizations have collected and reported data on conflict-induced IDPs annually since 2002. The

figures on IDPs reported by Kenyan NGOs are different from those of the government.<sup>33</sup>

## Conclusion

It is interesting that most governments seem to rely on international actors to collect data on internal displacement, or perhaps it is just that international data are more likely to be publicly available than data collected by national governments. Generally speaking, in all of the countries surveyed, the lack of accurate figures on IDPs outside of camps and of data on returns—especially on the conditions of IDPs upon return—and multiple displacement is also striking.

As this analysis shows, most governments recognize the importance of collecting data on IDPs, even when they are not in a position to do so themselves. IDPs have benefited from the efforts of international actors to work with governments to collect and report data to inform protection and assistance responses. In some cases, civil society actors have contributed to data collection efforts. However, in all of the countries surveyed, challenges to data collection and reporting abound, including lack of resources and capacity, insecurity inhibiting access to displaced populations, discrimination, the politicization of IDP data reporting, fear of registering on the part of IDPs and differences in the definitions "IDP" that often are more restrictive than the definition in the Guiding Principles—for instance, the definition may include only conflict-induced IDPs and sometimes only certain groups of such IDPs. Despite these and other challenges, data collection seems to be an area in which governments should be able to fulfill their responsibilities through cooperation with international and civil society actors.

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<sup>32</sup> OHCHR, "UN Expert Concerned about Growing Problem of Internal Displacement in Afghanistan," 20 August 2007; UNHCR, "Joint Press Release: Ministry of Refugees and Repatriation and UNHCR, First National IDP Report Reveals Complex Challenges for IDPs," 15 December 2008 ([www.unhcr.org/49b8e91c2.html](http://www.unhcr.org/49b8e91c2.html)); UNHCR, *National Profile on Internally Displaced Persons (IDPs) in Afghanistan*, December 2008 ([www.unhcr.org/49ba33a02.html](http://www.unhcr.org/49ba33a02.html)).

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<sup>33</sup> See further, Kenya case study in chapter 2 of this volume.



Colombia / A boy plays on the street near the Pacific coast of Colombia. Located on a clandestine trade route used by cocaine dealers and smugglers (of humans, arms and money), the once already displaced Afro-Colombian communities who live near the city of Buenaventura are in danger of being displaced again due to their strategic location and find themselves in the middle of a war between various armed groups fighting for the control of the region and the route to extend their influence.  
Photo: UNHCR / B. Heger / July 2010

## Benchmark 4

### Training on the Rights of IDPs

#### ***Are competent authorities adequately trained on their responsibilities to protect the rights of IDPs?***

Ensuring that relevant government officials at all levels are trained on internal displacement issues is a key element of the exercise of national responsibility and can contribute to the effectiveness of all aspects of the government's response. That government officials undergo training related to IDPs or to human rights more generally is a positive step that, although it is not a panacea for displacement, is part and parcel of sensitizing officials so that they are in a better able to protect and assist IDPs and, ideally, to prevent displacement. Nevertheless, despite training, even when it is based on the UN Guiding Principles on Internal Displacement, significant challenges remain for governments to prevent displacement, to provide protection and assistance during displacement and to ensure that IDPs achieve durable solutions in accordance with the Guiding Principles.

The Framework for National Responsibility calls for training specific groups of government officials, including

—government policymakers at the national level

—government officials at the regional and local levels who are in direct contact with the displaced and are responsible for implementing government policy and programs in the field

—members of the military and the police who are expected to play a key role in ensuring IDPs' protection

—IDP camp administrators as well as official responsible for humanitarian assistance and the protection of human rights

—commissioners and staff of national human rights institutions

—Parliamentarians, who play a leading role in the development of legislation

—civil society groups and most important, IDPs themselves, who are entitled to know their rights.

For more than a decade, training has been carried out by international agencies and nongovernmental organizations, civil society groups, and national actors trying to raise awareness of internal displacement and to support governments in exercising their responsibility for protecting and assisting people displaced within their borders. The Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) has played a leading role in developing training materials and conducting training for different groups of stakeholders.<sup>1</sup> Other training materials on internal displacement have been developed by the UN High Commissioner for Refugees (UNHCR), International Organization for Migration (IOM), the United Nations Children's Fund (UNICEF), Office of the High Commissioner for Human Rights (OHCHR), the Representative of the UN Secretary-General on Internally Displaced Persons (RSG), the Brookings Institution's Project on Internal Displacement and other actors.

For governments that are aware of internal displacement and committed to addressing it but lack the necessary capacity, training of government officials is an important first step. But given staff turnover in government ministries (not to mention among parliamentarians, staff of national human rights institutions, and camp administrators), training is not a one-off initiative but something that needs to be repeated with different groups of stakeholders. Even for staff who remain, training is not a single event but a continuous process of professional development that should become increasingly specialized and tailored to the context and to the particular competencies of different officials. Moreover, training needs to extend beyond the national-level staff

<sup>1</sup> IDMC was formerly known as the IDP Project ([www.internal-displacement.org](http://www.internal-displacement.org)).

of ministries responsible for IDPs to include provincial and municipal authorities as well as others who come into contact with IDPs. It would be helpful in that regard for governments to include a section or module on IDPs in any standard training curricula for government officials, police, social service agencies and other key actors. By doing so, they could reduce their reliance on external actors for training material, adapt generic material to a specific context, and institutionalize their commitment to strengthening their capacity to address internal displacement.

## Overview of Research Findings

To varying degrees, all of the fifteen countries surveyed have received—and in several cases actually sought out—training for their authorities on the rights of IDPs and on other issues related to internal displacement. The research reveals that the bulk of the training is conducted by international actors, but this may be a reflection of the fact that the available materials describing these trainings are in English; the research also indicates that national human rights institutions often undertake training as one of their principal activities regarding internal displacement (see Benchmark 8) and that often civil society groups also are active.

The focus of the research was on identifying training that specifically addressed internal displacement. When examples were found of displacement issues being integrated into broader training programs on disaster preparedness and response, this type of training also was included in the analysis.

Authorities from all of the case study countries have received some training on various specific issues related to internally displaced persons. Of all of the countries surveyed, authorities from various branches of government from the Central African Republic, Colombia, the Democratic Republic of the Congo, Georgia, Iraq, Kenya, Nepal, Sudan, Turkey, Uganda and Yemen have been trained specifically on the UN Guiding Principles on Internal Displacement. Uganda was the first country in the world to receive such training, after having requested it in 1998, the same year that the Guiding Principles were presented by RSG Francis Deng to the

United Nations. Discussed below are some examples of training conducted for national and local authorities over the past several years. Evidence of documented follow-up to training was generally not available.

Various UN agencies and international organizations have been involved in conducting training and workshops for government authorities on internal displacement, often including training on the Guiding Principles. These entities include the RSG, the Brookings Project on Internal Displacement, UNHCR, the Internal Displacement Monitoring Centre of the Norwegian Refugee Council (NRC), OHCHR, the UN Development Programme (UNDP), UN peacekeeping missions and the International Organization for Migration. IDMC has played a leadership role in providing training on internal displacement, particularly on the Guiding Principles, in many different countries for more than a decade. Indeed, it was in response to a request from the government of Uganda's Department of Disaster Preparedness and Refugees for training on the Guiding Principles that IDMC began to provide training, in that case in collaboration with OHCHR, in 1999. The training modules developed for that workshop for government officials, including police and camp administrators, as well as IDP representatives, civil society groups, UN agencies and NGOs, provided the foundation for a training program that now has been provided in more than twenty-five countries around the world. IDMC often provides such training in response to a request from and in collaboration with a UN agency or NGO working in the country. For example, in the Democratic Republic of the Congo (DRC), the UN Office for the Coordination of Humanitarian Affairs (OCHA) and NRC/IDMC organized workshops and training sessions on the Guiding Principles in 2003 and 2004, both jointly and individually, for government and nonstate actors in areas affected by displacement.<sup>2</sup> OCHA's Training Program on Internal Displacement Principles aimed to review the

<sup>2</sup> In Goma, Kalemie, Masisi, Kinshasa, Gbadolite, Bukavu, Kasongo, Beni and Bunia. OCHA, *Democratic Republic of the Congo 2004: Consolidated Appeals Process*, 2004, pp. 9–10 ([http://ochadms.unog.ch/quickplace/cap/main.nsf/h\\_Index/CAP\\_2004\\_DR Congo/\\$FILE/CAP\\_2004\\_DR Congo\\_SCREEN.PDF?OpenElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/CAP_2004_DR Congo/$FILE/CAP_2004_DR Congo_SCREEN.PDF?OpenElement)).

actions of DRC authorities and nongovernment actors in the field of IDP rights and to disseminate the Guiding Principles.<sup>3</sup> The Norwegian Refugee Council's Training on IDP Guiding Principles, Counseling and Legal Assistance to IDPs on Return program sought to raise awareness among local authorities and humanitarian actors on the protection and assistance needs of IDPs.<sup>4</sup> At times, IDMC training is conducted in partnership with national human rights institutions. For example, in 2003, IDMC organized a workshop in partnership with the Nepal Human Rights Commission to promote and disseminate the Guiding Principles and to analyze the country's internal displacement situation through the lens of the Guiding Principles. Representatives from government ministries, the police and the army participated in the workshop.

Often training workshops or seminars on the Guiding Principles also are organized during or recommended as a result of a country mission by the RSG. In May 2000, as part of the first visit by RSG Francis Deng to Georgia, the government hosted a regional workshop on internal displacement to raise awareness of the Guiding Principles among relevant government officials from Armenia, Azerbaijan and Georgia as well as international and local stakeholders. Various training sessions on the Guiding Principles followed in subsequent years in Georgia for government officials at the central and local levels, for national human rights institutions and for local NGOs at workshops organized in particular by NRC/IDMC, UNHCR, the Council of Europe and local NGOs. During RSG Walter Kälin's working visit to Turkey in May 2005, IDMC and UNDP provided a training workshop on the Guiding Principles to the subprovincial governors of the fourteen provinces affected by internal displacement. Cooperation between Turkish authorities and the United Nations also has led to the training of Interior Ministry officials on the use of the Guiding Principles. In Yemen, where overall there is a substantial lack of capacity for dealing with IDP issues at the central and local levels of government, RSG Kälin, following his visit in April 2010, recommended increasing capacity-building efforts. IDMC and UNHCR conducted training on the Guiding Principles in April 2010, which included national

UNHCR staff as well as government officials, particularly from local levels. UNHCR also conducted a series of protection workshops open to local officials, while IDMC was planning a "train-the-trainers" workshop on IDP protection in late 2010. In the Central African Republic, where governmental capacity also is limited, IDMC has facilitated a number of workshops on IDP issues for government officials as well as NGOs, which have included awareness-raising and training on the Guiding Principles and on the subregional and regional standards that have been developed based on the principles. In July 2010, UNHCR and IDMC organized a workshop at which the RSG participated to discuss the development of national legislation reflecting international and regional standards on IDPs. Moreover, in a potential good practice, in the Central African Republic the legal mandate establishing the national institutional focal point for addressing internal displacement (see also Benchmark 7) specifically gives this institution responsibility for initiating training sessions regarding the problem of displacement, based on human rights, international humanitarian law and the Guiding Principles.<sup>5</sup>

Of particular interest to this study, are a number of examples of training provided to government authorities on the Framework for National Responsibility itself. Indeed, the benchmarks outlined in the Framework were first developed as part of guidance materials on internal displacement developed for the International Organization for Migration's global training and capacity-building program on migration management for government policymakers and practitioners as well as IOM staff.<sup>6</sup> IDMC

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<sup>3</sup> Ibid., p. 91.

<sup>4</sup> Ibid., p. 93.

<sup>5</sup> See Erin Mooney, *Examen du cadre normative de la République Centrafricaine relatif à la protection des personnes déplacées à l'intérieur de leur propre pays: audit juridique* (Brookings Institution–University of Bern Project on Internal Displacement, February 2011), pp. 20–21.

<sup>6</sup> IOM, *Essentials of Migration Management: A Guide for Policy-Makers and Practitioners* (2005), also available in Arabic, Bosnian, Korean, Spanish and Russian. With respect to benchmarks of national responsibility, the IOM guidance is consistent with that provided by the Framework. The displacement module in the IOM guide was drafted by the researcher at the Brookings Institution's Project on Internal Displacement which authored the Framework.

since has incorporated the Framework and the guidance provided on specific benchmarks into its training material.<sup>7</sup> The Framework also figures as has the RSG and the Brookings-Bern Project on Internal Displacement in the Sanremo IDP Law Course, which began in 2005. The Framework and twelve benchmarks also are emphasized in the *Handbook for the Protection of Internally Displaced Persons* published in 2007 and 2010 by the Inter-Agency Standing Committee (the coordination forum on humanitarian action for the United Nations and NGOs), which serves as a guidance and training tool.<sup>8</sup> At the country level, humanitarian and human rights agencies have made use of the Framework in providing training on the rights of IDPs. For instance, in Sierra Leone, OHCHR has used the Framework in its training program for police. In Uganda, OHCHR partnered with the Ugandan Human Rights Commission to organize seminars in collaboration with UNHCR and OCHA to raise awareness and train international agencies, NGOs and IDP communities about IDPs' rights and the responsibilities of the authorities toward IDPs. In Georgia, UNHCR has provided training on the Framework to local NGOs, the national human rights commission and government authorities.

Beyond the Guiding Principles, the rights of IDPs and issues of national responsibility, training programs on internal displacement for government authorities and other stakeholders increasingly are covering a wide range of other issues. For instance, NRC/IDMC has provided training on the Framework for Durable Solutions to Displacement to the authorities and other relevant actors in Georgia; IDMC currently is developing a training package on this topic for global use. Also in Georgia, USAID, in partnership with UNHCR and other international stakeholders, undertook from 2009 to 2010 a technical assistance program for the government on IDP issues. The challenges that the authorities experienced in mounting a humanitarian response following the unexpected massive displacement crisis due to the outbreak of

armed hostilities in August 2008 have led the Georgian Ministry of Refugee Affairs to seek training in emergency preparedness and response, including in the case of sudden onset disasters. The assistance placed an emphasis on strengthening the government's capacity in terms of communication and coordination on IDP issues, including with the international community.<sup>9</sup> Following the adoption of the Great Lakes Pact and its protocols on internal displacement as well as the adoption of the African Union Convention for the Protection and Assistance of Internally Displaced Persons (Kampala Convention), IDMC and other NGOs such as Oxfam have organized training workshops in African countries, including the Central African Republic and Kenya, on this legally binding instrument. Training on the *Operational Guidelines on Protection of Persons Affected by Natural Disasters* has been carried out by the Brookings-Bern Project on Internal Displacement through regional workshops in Africa, Central America, Asia and the Pacific with the participation of government and nongovernment representatives from several of the countries included in this study. For example, the NGO Mingalar Myanmar offers extensive training at the village level on disaster risk reduction that is intended to reduce displacement resulting from natural disasters.<sup>10</sup>

Training and capacity building by international organizations also takes the form of institutional support, at times on a continuous basis, in some of the countries surveyed, including support to develop or improve implementation of internal displacement laws and policies. For example, since 2003 the government of Iraq has received significant support from the International Organization for Migration to strengthen its capacity to assist migrants, including IDPs and returnees, manage borders and address property-related disputes.<sup>11</sup> In Turkey, UNDP and other actors supported capacity-building efforts of the Ministry of Interior between June and October 2006 to improve the implementation of the Law on Compensation. UNDP organized

<sup>7</sup> See, for instance, IDMC, "National Human Rights Institutions and Internally Displaced Persons," reproducing the guidance provided in Benchmark 8 of the Framework ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>8</sup> Inter-Agency Standing Committee (IASC), *Handbook for the Protection of Internally Displaced Persons*, June 2010 ([www.unhcr.org/42355229](http://www.unhcr.org/42355229)).

<sup>9</sup> See further the Georgia case study in chapter 2 of this volume.

<sup>10</sup> Mingalar Myanmar (<http://mingalarmyanmar.org/index.html>).

<sup>11</sup> IOM, "Technical Cooperation and Capacity Building" ([www.iomiraq.net/tccb.html](http://www.iomiraq.net/tccb.html)).

the provision of technical support to the Ministry of Interior. Technical expertise was provided by IOM and the Brookings-Bern Project on Internal Displacement. UNDP also provided technical support and advice to the Ministry of the Interior, particularly the General Directorate of Provincial Administration, to establish a secretariat charged with reviewing decisions of the Damage Assessment Commissions. In 2008, the United Nations developed a training program on Nepal's National Policy on Internally Displaced Persons (2007) and the related IDP policy directives for local officials and civil society groups at the district level.

Following the visit of RSG Francis Deng and UN Emergency Relief Coordinator Jan Egeland to northern Uganda in mid-2003, several training workshops on IDP rights were held in Uganda. In November 2003, OCHA's IDP unit held two seminars on IDP rights for representatives of authorities at the district level and representatives of the Ugandan army as well as humanitarian personnel of international and national humanitarian organizations.<sup>12</sup> The Norwegian Refugee Council held training one week later for IDPs and local authorities on IDPs' rights in order to complement the seminars for national and international actors.<sup>13</sup> These training sessions were influential in developing the National Policy on Internal Displacement in 2004 and building support for its adoption. In 2005, NRC held a workshop to train trainers on the application of the Guiding Principles and on the National Policy for Internally Displaced Persons.<sup>14</sup> Further, in July 2006, the government hosted a two-day workshop, organized by the RSG Walter Kälin and the Brookings-Bern Project on Internal Displacement, focusing on the challenges of implementing the National Policy for Internally

Displaced Persons. The workshop brought together representatives of the government of Uganda, military and police forces, the United Nations, the Uganda Human Rights Commission, donor governments, local and international NGOs, internally displaced persons, and experts from research institutions.<sup>15</sup> While representatives of the Department of Disaster Preparedness and Refugees as well as representatives from the Uganda Human Rights Commission have been active participants in these workshops on internal displacement, it is unclear whether these institutions themselves conduct training on the rights of IDPs for government officials.

In the Central African Republic, IDMC and UNHCR have jointly organized workshops with government officials, parliamentarians and legal-focused local NGOs to evaluate the existing legal and institutional framework in light of the country's responsibilities under the Great Lakes Pact and its protocols.<sup>16</sup> In 2010 this series of workshops was capped off with a special workshop, attended by the RSG, to discuss the preliminary findings and recommendations of a "legal audit" to assess how well national legislation conformed with the Guiding Principles. The audit was undertaken in 2010 by the Brookings-Bern Project as part of technical assistance provided by the RSG and UNHCR to the CAR government.<sup>17</sup> At least since 2007, the United Nations has trained the armed forces of the Democratic Republic of the Congo and the Congolese National Police on human rights and civil-military relations as part of its objective to "find sustainable solutions for target populations (return, local integration, rehabilitation)."<sup>18</sup>

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<sup>12</sup> NRC and OXFAM, *Training on the UN Guiding Principles on Internal Displacement, Gulu and Kitgum Districts, Uganda*, November 2003 (<http://reliefweb.int/node/142963>).

<sup>13</sup> Ibid.

<sup>14</sup> IDMC, *Application of the UN Guiding Principles on Internal Displacement, and the National Policy on Internal Displacement: Report of a Training of Trainers Workshop for NRC-ICLA, Gulu, 10th–12th May 2005* ([www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/AA9E1AE8F82FE73E80257091004BA45A/\\$file/TOT\\_GP\\_workshop\\_report.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/AA9E1AE8F82FE73E80257091004BA45A/$file/TOT_GP_workshop_report.pdf)).

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<sup>15</sup> Brookings-Bern Project on Internal Displacement, *Workshop on the Implementation of Uganda's National Policy for Internally Displaced Persons, Kampala, Uganda, 3–4 July 2006*, p. 1 ([www.brookings.edu/events/2006/0704\\_uganda.aspx](http://www.brookings.edu/events/2006/0704_uganda.aspx)).

<sup>16</sup> IDMC, "Training Workshops: Central African Republic" ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>17</sup> Mooney, *Examen du cadre normative de la République Centrafricaine relatif à la protection des personnes déplacées à l'intérieur de leur propre pays: audit juridique*.

<sup>18</sup> UNHCR, "Global Report 2009: Democratic Republic of the Congo," 1 June 2010, p. 3; OCHA, "Democratic Republic of the Congo Mid-Year Review: Humanitarian Action Plan 2007," p. 16.

In Sri Lanka, the government generally permits training of its personnel by national and international humanitarian organizations and some small-scale trainings have been conducted over the past decade. Much of the Northern Province, where displacement is most extensive, was formerly governed and administered by the LTTE; in the conflict and post-conflict period, it has been, in effect, under the administration of the military. Only recently have many areas in the North transitioned to civil administration. The primary obstacle to training government officials during this time has been the lack of consistent humanitarian access.

Trainings conducted since 2002 include a series of training and assessment workshops conducted by the Sri Lankan NGO the Consortium of Humanitarian Agencies (CHA) with support from the Brookings-Bern Project on Internal Displacement. Since its establishment in 2002, the Human Rights Commission of Sri Lanka (HRC) has trained government officials, government security forces, NGOs, IDPs and host communities, HRC staff and other actors on the rights of IDPs through its National Protection and Durable Solutions for Internally Displaced Persons Project.<sup>19</sup>

In addition, CHA, with support from the Brookings-Bern Project and UNHCR, operationalized the Guiding Principles through the development of training materials, including the *Guiding Principles on Internal Displacement: A Toolkit for Dissemination Advocacy and Analysis*—which targeted and was disseminated to IDPs and relevant actors, including politicians, military officers from the Sri Lankan armed forces and the Liberation Tigers of Tamil Eelam—as well as the *Practitioners' Kit for Return, Resettlement and Development*, which focused specifically on Guiding Principles 28, 29 and 30 relating to return, resettlement and reintegration.

In Colombia, a workshop held in 1999 on the application of the guiding principles on internal displacement in Colombia brought IDP representatives and government officials together for the first time in formal discussion.<sup>20</sup> The workshop was cosponsored by the

Colombian NGO, Support Group for Displaced Persons Organizations (Grupo de Apoyo a Organizaciones de Desplazados), the Brookings-Bern Project on Internal Displacement and the U.S. Committee for Refugees. The Colombian government has since recognized, most notably in Presidential Directive No. 6 of 2001, the need for training authorities on the Guiding Principles. In response, the government's Ombudsman's Office, together with IDMC, organized a three-day training workshop targeting municipal ombudsmen that focused on the Guiding Principles and national IDP legislation. Training emphasized the particular role and responsibilities of the municipal ombudsmen in relation to prevention, protection, assistance, return and resettlement. Participants also identified obstacles to implementation and ways of overcoming them.

In Kenya<sup>21</sup>, the government and the National Commission on Human Rights (KNCHR) have seemingly been active in promoting the sensitization of relevant authorities to the Guiding Principles. While it is not within the mandate of the Ministry for Special Programs, the ministry charged with IDPs, to conduct training on the rights of IDPs, it partners with human rights NGOs to conduct training. In May 2008, the government deployed thirty-five district officers trained on IDP issues and peace-building to areas affected by post-election violence. Since June 2008, the KNCHR has conducted training on the Guiding Principles for various authorities, including district officers, judicial authorities, and law enforcement authorities, including the army, the police, prison authorities, and the national intelligence service. The National Protection Working Group on Internal Displacement, which was transformed from the UN Protection Cluster in 2009 and was involved in the drafting of the *Draft National Policy for the Prevention of Internal Displacement and the Protection and Assistance to Internally Displaced Persons in Kenya*, is co-chaired by the Ministry of

<sup>19</sup> See further the Sri Lanka case study in chapter 2 of this volume.

<sup>20</sup> Brookings Institution Project on Internal Displacement,

*Internal Displacement In Colombia: Summary Report of the Workshop on Implementing the Guiding Principles on Internal Displacement, Bogota, Colombia, May 27-29, 1999*, ([www.brookings.edu/events/1999/0527\\_colombia.aspx](http://www.brookings.edu/events/1999/0527_colombia.aspx)).

<sup>21</sup> See further the Kenya case study in chapter 2 of this volume.



Justice, National Cohesion and Constitutional Affairs and the Kenya National Commission on Human Rights. The working group trains government officials on the Guiding Principles to strengthen the capacity of the government to protect the rights of IDPs.

In Sudan, which as of 2010 was the top recipient of humanitarian aid for at least the previous six consecutive years and which has one of the largest displacement situations in the world, numerous training sessions for Sudanese government authorities on the rights of IDPs have been conducted since 2002 by national and international organizations and, following the Comprehensive Peace Agreement, by the government of Southern Sudan (GoSS) for government officials in conflict and peace-building. Training of Sudanese government officials and nonstate actors has been conducted by the Brookings–School of Advanced International Studies (SAIS) Project on Internal Displacement, by RSG Francis Deng, who is himself Sudanese, and by UN agencies since at least 2002. In September 2002, the IDP unit of OCHA, with assistance from the Brookings Project on Internal Displacement, held a training workshop on the Guiding Principles for the Sudan People’s Liberation Movement/Army (SPLM/A), the Sudan Relief and Rehabilitation Association (SRRA) and the Relief Association of Southern Sudan in Rumbek. That training, in addition to similar training with the government of Sudan in August 2002 facilitated by OCHA’s IDP unit, led to the formulation of a draft policy based on the Guiding Principles that addresses the needs of IDPs in areas controlled by the SPLM/A. Participants submitted the draft policy to Elijah Malok, executive director of the SRRA, for review and presentation to the SPLM/A leadership.<sup>22</sup> That was followed by additional

training on the Guiding Principles in a seminar convened by the RSG, the Brookings-School of Advanced International Studies (SAIS) Project on Internal Displacement and UNICEF with the Sudan Relief and Rehabilitation Association, civil society groups, host communities and IDPs, international organizations and NGOs operating in South Sudan as well as representatives from Sudan People’s Liberation Movement/Army and Sudan People’s Democratic Front.<sup>23</sup> At the time, many international NGOs were reluctant to work with the SPLM/A on its IDP policies, given that it was a nonstate actor.<sup>24</sup> Training has also been conducted on specific operational matters concerning IDPs in Sudan. IOM has worked since at least 2004 to train government and nongovernment actors on protection issues related to returnees and relocated individuals in Darfur and in Southern Sudan.<sup>25</sup>

Notwithstanding all of these and other training initiatives in the country, the RSG’s 2006 mission report on Sudan stressed the continuing need for increased human rights training for national and international humanitarian and administrative personnel in the country.<sup>26</sup> The RSG pointed out that human rights

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<sup>22</sup> See further UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Summary Report of the Seminar on Internal Displacement in Southern Sudan (Held at Rumbek, Sudan, on 25 November 2002)*, 10 January 2003, E/CN.4/2003/86/Add.6, ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)); See also the full, original version of the summary report: Brookings–SAIS Project on Internal Displacement, *Seminar on Internal Displacement on Southern Sudan, Rumbek, Sudan, November 25, 2002*, February 2003 ([www.brookings.edu/reports/2003/02humanrights\\_idp.aspx](http://www.brookings.edu/reports/2003/02humanrights_idp.aspx)).

<sup>23</sup> UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Summary Report of the Seminar on Internal Displacement in Southern Sudan*.

<sup>24</sup> *Ibid.* See also the full, original version of the summary report: Brookings–SAIS Project on Internal Displacement, *Seminar on Internal Displacement on Southern Sudan*.

<sup>25</sup> In 2009, IOM held training for government authorities from the Humanitarian Aid Commission (HAC) and Sudan Liberation Army/ HAC on such issues. By the end of 2009, IOM had also trained over 1,400 enumerators from the Southern Sudan Relief and Rehabilitation Commission and the Voluntary Return and Reintegration Committee in southern Kordofan to track returning IDPs since February 2007. IOM, “IOM Sudan Annual Report 2009,” pp. 15, 17 ([www.iom.ch/jahia/webdav/shared/shared/mainsite/activities/countries/docs/sudan\\_annual\\_report2009.pdf](http://www.iom.ch/jahia/webdav/shared/shared/mainsite/activities/countries/docs/sudan_annual_report2009.pdf)).

<sup>26</sup> UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to the Sudan (3–13 October 2005)*, 13 February 2006, E/CN.4/2006/71/Add.6, p. 23 (<http://>

training for military and police personnel was one of the priorities of the UN Country Team in supporting the government of Southern Sudan. UNHCR, as chair of the Protection Cluster Working Group, since has held training sessions on the Guiding Principles and on international refugee law for high-ranking officers of the Chad-Sudan military force deployed along the common border. UNHCR has also trained other high-level law enforcement officials on IDP rights and protection, including security officials and as well as Humanitarian Aid Commission and Southern Sudan Relief and Rehabilitation Commission officials working with the IDP communities in Khartoum.<sup>27</sup> The UN Mission in Sudan (UNMIS) training program for local police has received verbal support from the Police Development Committee, which is chaired by the Police Director General of Sudan.<sup>28</sup> As part of its program, UNMIS conducts community policing courses with a focus on IDP camps in northern Sudan.<sup>29</sup>

More than 100 government officials dealing with internal displacement from various countries throughout the world have participated in the Annual Course on the Law of Internal Displacement in Sanremo, Italy, since it was initiated in 2005, along with several officials from national human rights institutions and regional organizations. The course is held on an invitation basis by the Representative of the UN Secretary-General

on Internally Displaced Persons in collaboration with the International Institute of Humanitarian Law, UNHCR and the Brookings-Bern Project on Internal Displacement. Since 2005, government officials from all fifteen countries surveyed in this study have participated in the course, in some instances in addition to officials from national human rights commissions.

In other instances, international actors have trained national authorities on human rights generally. During his visit to the Central African Republic in 2007, RSG Kälin was informed by the government that the “High Commissioner for Human Rights and Good Governance was devising a plan to improve training, education and awareness-raising on human rights and international humanitarian law among the defence and security forces,” although no specific reference was made to IDPs.<sup>30</sup> In October 2008, a government committee was established by interministerial decree to oversee the integration of international humanitarian law into armed forces training, doctrine and operations. The International Committee of the Red Cross has since supported the committee by providing teaching materials and legal advice and in 2008 held a two-day workshop with eighteen armed forces officers to determine how to standardize training curriculum and operational procedures.<sup>31</sup>

The government of Southern Sudan’s UNDP-supported Southern Sudan Peace Commission (SSPC) has participated in various training sessions on peace-building and human rights and has held peace conferences throughout Southern Sudan. Both the SSPC and the GoSS Community Security and Arms Control (CSAC) Bureau have received capacity-building training to address conflicts. In 2010 the SSPC held workshops on rights and conflict. State directors of the SSPC and CSAC inspectors at the state level were to receive training in

ap.ohchr.org/documents/dpage\_e.aspx?m=71).

<sup>27</sup> UNHCR, “Sudan,” *Global Appeal 2009–2009*, December 2007 ([www.unhcr.org/publ/PUBL/474ac8cb0.pdf](http://www.unhcr.org/publ/PUBL/474ac8cb0.pdf)); UNHCR, *Sudan Operations: Sudan/Chad Situation Update 68*, 17 December 2006, p. 6 (<http://reliefweb.int/node/222022>); UNHCR, “UNHCR Delivers Humanitarian Training to the Chad/Sudan Joint Military Force,” 6 December 2010 (<http://reliefweb.int/node/377046>).

<sup>28</sup> UN Commission on Human Rights, *Mass Exoduses And Displaced Persons—Report of the Representative of the Secretary-General on internally displaced persons, Mr. Francis Deng, submitted pursuant to Commission on Human Rights resolution 2002/56—Addendum: Summary Report Of The Seminar On Internal Displacement In Southern Sudan (Held at Rumbek, Sudan, on 25 November 2002)*.

<sup>29</sup> UNMIS, “UNMIS Police Fact Sheet,” 11 April 2010 (<http://unmis.unmissions.org/LinkClick.aspx?fileticket=64j6f6eAmEo%3D&tabid=567>).

<sup>30</sup> UN Human Rights Council, *Report of the Secretary General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to the Central African Republic*, 18 April 2008, A/HRC/8/6/Add.1 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)).

<sup>31</sup> International Committee of the Red Cross, *Annual Report 2008* ([www.icrc.org/Web/eng/siteeng0.nsf/htmlall/annual-report-2008-car/\\$File/icrc\\_ar\\_08\\_car.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/annual-report-2008-car/$File/icrc_ar_08_car.pdf))

February 2010; one outcome of the training was to be the development of action plans to be implemented with the support of the SSPC and state line ministries, UN agencies and NGOs. While a direct link between these activities and IDPs could not be ascertained, the SSPC was established under the Comprehensive Peace Agreement (CPA) and aims to promote peace-building, good governance and participatory democracy in all of Southern Sudan, in line with the peace agreement. The Government of South Sudan's Ministry of Peace and CPA Implementation has a proposed 2011 budget of 5.4 million Sudanese pounds (estimated \$2.3 million) envisaging training of trainers on similar issues for SSPC staff and Peace Committees and Councils, the police and the military.<sup>32</sup>

### Conclusion

The report on this benchmark has yielded an impressive listing of training initiatives carried out in each of the fifteen surveyed. The overall tendency was for governments to participate in human rights-related training, but seemingly that was often at invitation of others, especially UN agencies and other international actors. However, no public information appeared to be available on what training programs governments may have initiated and conducted themselves. Training programs identified were not necessarily conducted regularly, but they were relatively easy to track down because it seemed that the government and/or the international organization was keen to publicize the fact that training workshops were held.

Less obvious, however, were what levels of state officials were trained, what the selection process was, how IDP-specific the training was, whether those trained found the training useful, and, as is usually the case, what if any impact the training had. For example, if training was conducted within a country over time, taking turnover and the protracted nature of conflict into consideration, it would be interesting to know whether training impacted the culture or operations of government or military officials in their approach to human rights or international humanitarian law.

The analysis also fails to capture—primarily because of the limited information available—the extent to which training has become part and parcel of the government's ongoing activities. For example, has training on IDPs or the Guiding Principles become a routine component of staff training or staff development? Moreover, although there is tendency to assume that participation in a training course leads to changed behavior and to enhanced responses, that assumption generally is unproven and is not supported by the survey of the cases in this study. Certainly, there have been cases in which participants in training courses subsequently took important initiatives, such as supporting the development of laws or policies on internal displacement. In a significant number of cases training has been combined with other policy initiatives. It could be useful, therefore, to look at the relationship between participation in training courses and outputs such as increased advocacy or advocacy that is more focused on protection or new policy initiatives. The experience in this study, however, suggests that such data would be difficult to collect, all the more so from a distance.

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<sup>32</sup> Government of Southern Sudan, "Capacity Building of Southern Sudan Commission and CSAC Bureau (States and GoSS levels); TOT in Conflict Transformation and Participatory Rural Appraisals Training 15th–26th February 2010" ([www.goss-online.org/magnoliaPublic/en/Independant-Commissions-and-Chambers/Peace-Comission/mainColumnParagraphs/0/content\\_files/file/Peace%20comm-Capacity%20Bldg.pdf](http://www.goss-online.org/magnoliaPublic/en/Independant-Commissions-and-Chambers/Peace-Comission/mainColumnParagraphs/0/content_files/file/Peace%20comm-Capacity%20Bldg.pdf)). For 2011 budgetary information, see Government of South Sudan, *Social and Humanitarian Affairs Sector, Budget Sector Plan 2011–2013*, August 2010, Section 5.4 ([www.goss-online.org/magnoliaPublic/en/ministries/Finance/2011-APP.html](http://www.goss-online.org/magnoliaPublic/en/ministries/Finance/2011-APP.html)). Exchange rates calculated based on 15 February 2010 rate ([www.oanda.com/currency/converter](http://www.oanda.com/currency/converter)).



**Central African Republic / The skeletons of burned houses are the result of recent violence by herdsmen in Bamatara.  
Photo: UNHCR/ J-M Baba / March 2010**

## Benchmark 5

### Ensure a Legal Framework for Upholding IDPs' Rights

#### ***Does national legislation address the specific needs arising in situations of internal displacement and support IDPs to realize their rights?***

Experience shows that an effective response to displacement almost always requires legislative action, typically because current laws pose unintended obstacles to the ability of IDPs to realize their rights or because they do not, on their own, provide a sufficient basis for addressing the needs of IDPs. Existing laws may unintentionally discriminate against IDPs. For example, a requirement that children present their educational records in order to register for school may discriminate against IDP children who have lost their documents in the course of displacement or who, because they are displaced, are unable to return home, even temporarily, to obtain them. In some cases, such shortcomings can be addressed through an executive order or policy; in other cases, legislation may be required.

As the Framework for National Responsibility emphasizes, there are different ways of addressing internal displacement and protecting the rights of IDPs through national legislation. In some instances, governments have adopted legislation to address a specific phase of displacement, such as return and resettlement; in other cases, governments have adopted comprehensive laws. In addition, it is important to review and analyze existing national legislation in terms of its compatibility with international standards, including the Guiding Principles on Internal Displacement (the Guiding Principles), and to introduce any amendments required. *Protecting Internally Displaced Persons: A Guide for Law and Policy Makers*, developed by the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons (RSG on IDPs) and the Brookings-Bern Project on Internal Displacement, recommends that the legal framework for addressing displacement include at least two elements:

—a review and analysis of existing national legislation to identify and change provisions that are incompatible with international human rights law and the Guiding Principles;

—national laws regulating the response to internal displacement specifically, including the prevention of arbitrary displacement.<sup>1</sup>

As a former legal adviser to the Brookings-Bern project observed, “the process of developing a comprehensive law or policy presents an opportunity for all relevant stakeholders to share perspectives on the best practices for addressing internal displacement.” Such laws should take into account the particular conditions of displacement, national legal frameworks and particular vulnerabilities of the displaced.<sup>2</sup>

To date, fourteen countries have developed laws on or pertaining to internal displacement, many of them based on the Guiding Principles.<sup>3</sup> A few other countries have drafted legislation on internal displacement (Nigeria and the Philippines) or are currently drafting legislation (Central African Republic). These developments reflect the growing realization that internal displacement must be addressed at the national level, as a matter of both legal obligation and national interest. Based on analysis of information available online and the work of the Office of the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, several of

<sup>1</sup> Brookings-Bern Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers*, October 2008 ([www.brookings.edu/papers/2008/1016\\_internal\\_displacement.aspx](http://www.brookings.edu/papers/2008/1016_internal_displacement.aspx)).

<sup>2</sup> Jessica Wyndham, “A Developing Trend: Laws and Policies on Internal Displacement,” *Human Rights Brief*, 2006, p. 8 ([www.brookings.edu/articles/2006/winter\\_humanrights\\_wyndham.aspx](http://www.brookings.edu/articles/2006/winter_humanrights_wyndham.aspx)).

<sup>3</sup> Angola, Liberia, Sri Lanka, Tajikistan, Colombia, Peru, United States, Armenia, Azerbaijan, Bosnia-Herzegovina, Georgia, Russia, Turkey, and Iraq. See the Brookings Project on Internal Displacement laws and policies database for a summary and the full text of IDP-related laws and policies ([www.brookings.edu/projects/idp/Laws-and-Policies/idp\\_policies\\_index.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/idp_policies_index.aspx)).

the fifteen countries surveyed had laws or policies pertaining specifically to internally displaced persons.

Benchmark 5 concerns the provision of a legal framework for addressing the needs and upholding the rights of IDPs. But experience suggests that in order to be effective, such laws must be reinforced in policies and actions (see Benchmark 6) and reflected in clearly defined institutional responsibilities for addressing internal displacement (see Benchmark 7).

## Overview of research findings

Of the fifteen countries surveyed, five had a law on internal displacement specifically or on an issue related to internal displacement: Afghanistan, Colombia, Georgia, Iraq and Turkey. Legislation may be quite comprehensive in scope, as in the case of Colombia, covering all phases of displacement including prevention and durable solutions, or it may be narrow, addressing specific rights of IDPs, as in Iraq, Turkey and Afghanistan. Other countries lacked a national legislative framework on IDPs but had generic legislation relevant to IDPs. Still others had laws that violated or could violate the rights of IDPs. Some African countries surveyed had signed or ratified regional instruments that protect the rights of IDPs and legally bind signatories to adopt national legislation in line with the Guiding Principles on Internal Displacement. The Central African Republic, for example, is in the process of developing and amending national legislation to that end.

The laws of Georgia and Colombia on internal displacement pre-date the Guiding Principles on Internal Displacement. As is the case with most national legislation on internal displacement, the laws in both countries define the term “IDP” more narrowly than it is defined in the Guiding Principles by focusing on conflict-induced IDPs and failing to address IDPs due to other causes, such as disasters.

The Law of Georgia on Forcibly Displaced Persons—Persecuted Persons (1996) provides a definition for

“conflict-induced IDPs,” which is a recognized status under national law, and spells out the rights of IDPs and the responsibilities of the authorities to them. From 2000 to 2002, a comprehensive study carried out by local lawyers with the support of the Brookings Project on Internal Displacement examined not only the IDP law but also more than 200 other legislative acts to assess the degree to which Georgian legislation upheld the international standards reflected in the Guiding Principles.<sup>4</sup> The study found that while much of Georgian legislation was in conformity with—and sometimes even offered a higher degree of protection than—the Guiding Principles, there also were a number of areas in which legislation could be improved or clarified vis-à-vis the Guiding Principles; the government subsequently adopted several of the study’s recommendations. Other efforts to strengthen the national legal framework for protecting the rights of IDPs in Georgia include a ruling of the Constitutional Court recognizing the rights of IDPs to purchase property without losing their IDP status or in any way jeopardizing their right to return, revisions to the Electoral Code and the adoption of a property restitution law for IDPs from South Ossetia.<sup>5</sup>

Colombia’s law on internal displacement, Law 387 of 1997, takes a comprehensive approach to addressing all phases of displacement: prevention of displacement; protection and assistance during displacement; and conditions for return. It also designates responsible institutional and ministerial agencies. As mentioned, its definition of “IDP” is narrower in scope than that of the Guiding Principles, as it does not recognize IDPs displaced by natural or man-made disasters, for instance. Law 387 defines IDPs as “individuals who have forcibly migrated because of internal armed conflict, civil

<sup>4</sup> A similar study was also carried out by local lawyers in Armenia and Azerbaijan. See Roberta Cohen, Walter Kälin, and Erin Mooney, *The Guiding Principles on Internal Displacement and the Law of the South Caucasus: Georgia, Armenia, and Azerbaijan* (Brookings Institution and the American Society of International Law, 2003) ([www.asil.org](http://www.asil.org)).

<sup>5</sup> See further the Georgia case study in chapter 2 of this volume.

tension and disturbances, general violence, massive human rights violations, and infringement of international humanitarian law.”<sup>6</sup> However, while national legislation addresses the specific needs of IDPs and supports their efforts to realize their rights, implementation remains a problem in many instances.

Colombia’s Constitutional Court has actively sought to ensure better protection for and assistance to IDPs. The Colombian constitutional order has incorporated the Guiding Principles as “mandatory criteria for interpreting the scope of IDPs’ fundamental rights.”<sup>7</sup> The court used the Guiding Principles and its own previous case law in the landmark Decision T-025 of 2004 and in its subsequent rulings and awards (*autos*) on IDP-related issues, which have greatly expanded the legal framework for addressing a range of IDP issues.<sup>8</sup> In Decision T-025, the court, after reviewing over 100 claims (*tutelas*) of IDPs, ruled that an “unconstitutional state of affairs” existed due to the gap in policy—as reflected in Law 387—and the government’s resources and capacity to protect and assist IDPs.<sup>9</sup>

While Article 10 of Law 387 stipulates the right of IDPs to compensation and restitution, the government has not done enough to establish measures enabling them to realize that right. The Constitutional Court’s

Decision T-821 in October 2007 ordered the government to ensure respect for victims’ right to reparation and property restitution. In January 2009, the Constitutional Court ordered the government to comprehensively address land rights issues and to establish mechanisms to prevent future violations. The “Victims’ Law” (Law of Victims and Land Restitution), which would have fulfilled those requirements, was defeated in Colombia’s House of Representatives in June 2009 during the presidency of Alvaro Uribe.<sup>10</sup> However, the landmark law was passed by Congress on 24 May 2011 under the administration of Juan Manuel Santos. In the law the government acknowledges for the first time ever the existence of an internal armed conflict in Colombia, and recognizes as “victims” those individuals or communities whose rights were violated under international humanitarian law or international human rights law.<sup>11</sup> The law regulates reparation for all victims of the armed conflict, including through land restitution or compensation for IDPs, aiming to give back two million hectares of land to IDPs by 2014 (see further, Benchmark 10). The government has reportedly set aside \$1.2 billion for the 2011 budget to begin to fund restitution efforts and claims can be filed until 2025.<sup>12</sup> As some parts of Colombia’s Civil Code prevent the restitution of land in conflict-affected areas, it is unclear how or whether that will be an issue with the newly passed Law of Victims and Land Restitution.<sup>13</sup>

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<sup>6</sup> Government of Colombia, Law 387 of 1997, Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Colombia” ([www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx)).

<sup>7</sup> Federico Guzman Duque, “The Guiding Principles on Internal Displacement: Judicial Incorporation and Subsequent Application in Colombia,” in *Judicial Protection of Internally Displaced Persons: The Colombian Experience* (Washington, D.C.: Brookings-Bern Project on Internal Displacement, November 2008), p. 175, ([www.brookings.edu/idp](http://www.brookings.edu/idp)).

<sup>8</sup> Rulings include Decision T-821 of 2007, *Auto* 092 of 2008, and *Autos* 004, 005, and 008 of 2009.

<sup>9</sup> Constitutional Court of Colombia, Decision T-025 of 2004, Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Colombia.”

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<sup>10</sup> “Ley de Víctimas se hunde ante presión del Gobierno,” *El Espectador*, 18 June 2009 ([www.elespectador.com/noticias/politica/articulo146500-ley-de-victimas-se-hunde-presion-del-gobierno](http://www.elespectador.com/noticias/politica/articulo146500-ley-de-victimas-se-hunde-presion-del-gobierno)).

<sup>11</sup> Government of Colombia, Ley 1448 del 10 junio de 2011 [Law 1448 of 10 June 2011], available at Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Colombia,” ([www.brookings.edu/projects/idp/Laws-and-Policies/idp\\_policies\\_index.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/idp_policies_index.aspx)).

<sup>12</sup> Dan Molinski, “Colombia Finance Minister Promises Funding for War Victims,” Dow Jones Newswires, published in *Colombia Reports*, 27 May 2011 (<http://colombiareports.com/colombia-news/news/16546-finance-minister-promises-funding-for-war-victims.html>).

<sup>13</sup> See further IDMC, *Building Momentum for Land*

Turkey's Law No. 5233 on Compensation of Damages That Occurred Due to Terror and the Fight against Terror (27 July 2004) does not specifically focus on internal displacement, but it does benefit IDPs among other affected populations. The law and its related amendments and regulations compensate for "material damages suffered by persons due to terrorist acts or activities undertaken during the fight against terror" between 1987 and 2004. Compensation is provided for three types of damage: loss of property; physical injuries, disabilities, medical treatment, death and funerals; and inability to access property due to measures taken during "the fight against terrorism." According to the law, compensation is to be determined by damage assessment commissions (DACs) at the provincial level, with funding provided by the Ministry of the Interior.<sup>14</sup> From 2004 to August 2009, the commissions received just over 360,000 applications. Of those, over 190,000 claims were decided: 120,000 were approved and the claimants awarded compensation; the remaining 70,000 were denied. Around \$1.4 billion in compensation was awarded, of which close to \$1.1 billion has been paid.<sup>15</sup>

While Turkish authorities have made improvements to the law to respond to criticisms, problems are still outstanding. It has been criticized for ineffective implementation, including lack of independence of DACs; the

unreasonable burden of proof placed on IDPs; lack of effective appeals procedures; lack of information about the claims process; and inconsistent and inequitable application of the law. Walter Kälin, the RSG on IDPs, called attention to these and other issues and offered related recommendations in March 2006.<sup>16</sup>

In Iraq, various decrees and orders on displacement exist, and the Transitional Administrative Law—which was valid from June 2004 until the adoption of the Constitution in 2005—as well as the Constitution protects Iraqis against forced displacement.<sup>17</sup> The Constitution also protects Iraqis' right to return. Notably, since 2004 the Iraqi authorities have taken measures to

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*Restoration: Towards Property Restitution for IDPs in Colombia*, September 2010 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>14</sup> The provisions discussed in this paragraph can be found in Articles 1, 4-7, Law No. 5233 on the Compensation of Damages That Occurred due to Terror and the Fight against Terror, published in the *Official Gazette*, 27 July 2004, and in the law's subsequent regulations and amendments, available at Brookings-Bern Project on Internal Displacement, "National and Regional Laws and Policies on Internal Displacement: Turkey" ([www.brookings.edu/projects/idp/Laws-and-Policies/turkey.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/turkey.aspx)).

<sup>15</sup> IDMC, *Turkey: Need for Continued Improvement in Response to Protracted Displacement: A Profile of the Internal Displacement Situation*, 26 October 2009, p. 12, citing correspondence with the government of Turkey, 17 September 2009 ([www.internal-displacement.org](http://www.internal-displacement.org)).

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<sup>16</sup> Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Mr. Walter Kälin, Letter to Permanent Mission of Turkey to the United Nations, March 2006, pp. 2-4, on file with the authors. See also IDMC, *Protracted Displacement in Europe*, Geneva, May 2009, pp. 16-18; Dilek Kurban, Ayşe Betül Celik, and Deniz Yüksek, *Overcoming a Legacy of Mistrust: Toward Reconciliation between the State and 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 Turkey*, IDMC/Turkish Economic and Social Studies Foundation (TESEV), June 2006 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>17</sup> Forced displacement and other oppressive and discriminatory practices of the Saddam Hussein regime were addressed in the Law of Administration for the State of Iraq for the Transitional Period, also called the Transitional Administrative Law (TAL). Signed by the Coalition Provisional Authority (CPA) and the Iraq Governing Council, 8 March 2004, the TAL was in effect during the transitional period in Iraq between 28 June 2004 and December 2005 just prior to Iraq's first elections for a constitutionally elected government. The TAL mandated the government to prevent, address, and protect Iraqis from displacement: "The Iraqi Transitional Government shall take effective steps to end the vestiges of oppressive acts of the previous regime arising from forced displacement, deprivation of citizenship, expropriation of financial assets and property, and dismissal from government employment for political, racial, or sectarian reasons." Article 6, Law of Administration for the State of Iraq for the Transitional Period ([www.cpa-iraq.org/government/TAL.html](http://www.cpa-iraq.org/government/TAL.html)).



address property issues, which abound in a country affected by successive waves of forced displacement.

The recognition of the forced displacement of Iraqis carried over to the 2005 Iraqi Constitution, which replaced the Transitional Administrative Law. The preamble of the Constitution portrays the establishment of “a nation of law,” or a “new Iraq,” as a break from the violence and repression of the past, which included the “displacement of . . . skilled individuals.” Article 44(2) of the 2005 Constitution stipulates that “[n]o Iraqi may be exiled, displaced, or deprived from returning to the homeland.”<sup>18</sup>

Iraq has taken legal measures to recover property for those displaced before 2003, although significant gaps and challenges remain. Iraq’s Commission on the Resolution of Real Property Disputes (CRRPD), established by Order No. 2 (2006), seeks to provide restitution or compensation for property seized between 1968 and 2003.<sup>19</sup> However, the commission does not address property destruction, leaving many without legal redress. Nearly 160,000 claims had been issued as of February 2010; while nearly 80,000 claims had been resolved at the first instance level, final decisions had been issued for only some 43,000 claims, or a quarter of the total number. As the International Organization for Migration (IOM) notes, at the rate the commission is resolving claims, it will take twenty years to finalize all of them. A high appeals rate—nearly 50 percent nationwide and up to 80 percent in Kirkuk Province—is

in part to blame.<sup>20</sup> Legislation was passed in February 2010 replacing the CRRPD with the Property Claims Commission, which retains the mandate for providing restitution or compensation for immovable property expropriated under the former regime.<sup>21</sup>

While current policies do not address all land and property rights violations that have occurred since 2003, the Iraqi government has taken some legal measures to address post-2006 internal displacement. Iraq’s Council of Ministers Decree 262 (2008) and Prime Ministerial Order 101 (2008) seek to provide property restitution for registered IDPs displaced between 2006 and January 2008 to give them an incentive to return and to facilitate their return to the Baghdad governorate, the origin of the majority of post-2006 IDPs and the location of the majority of post-2006 returnees.<sup>22</sup> Decree 262 provides a return grant of around \$850 to an IDP in exchange for annulment of his or her IDP status, while Order 101 provides an administrative mechanism to facilitate recovery of property for returnees. Order 101 tasks the Ministry of Displacement and Migration (MoDM) with establishing return centers to assist returning IDPs and refugees in recovering their property and tasks MoDM, the Ministry of Justice, the Follow-up Committee for

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<sup>18</sup> Constitution, Para. 2; Article 44(2) ([www.uniraq.org/documents/iraqi\\_constitution.pdf](http://www.uniraq.org/documents/iraqi_constitution.pdf)).

<sup>19</sup> In 2006 the Iraqi Transitional National Assembly replaced the Iraq Property Claims Commission, established under the Coalition Provisional Authority in January 2004, with the CRRPD. For unofficial translations by the Reparations Unit of the International Organization for Migration (IOM) of Order No. 2; the Law of the Commission of Property Disputes No. 13; and the Law of Property Compensation for Those Who Were Affected by the Former Regime (2010), see Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Iraq” ([www.brookings.edu/projects/idp/Laws-and-Policies/iraq.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/iraq.aspx)).

<sup>20</sup> Peter Van der Auweraert, *Land and Property Issues in Iraq: Present Challenges and Future Solutions— Discussion Points*, p. 29, in Brookings-Bern Project on Internal Displacement, *Resolving Iraqi Displacement: Humanitarian and Development Perspectives, 18–19 November 2009, Doha, Qatar*, April 2010, ([www.brookings.edu/idp](http://www.brookings.edu/idp)); Deborah Isser and Peter Van der Auweraert, *Land, Property, and the Challenge of Return for Iraq’s Displaced*, USIP Special Report 221, April 2009 ([www.usip.org/files/resources/1.pdf](http://www.usip.org/files/resources/1.pdf)).

<sup>21</sup> See further, Peter Van der Auweraert, “Iraq Updates Its Approach to Former Regime-Related Land and Property Claims,” TerraNullius: The Housing, Land and Property Weblog (<http://terra0nullius.wordpress.com/2010/03/11/iraq-updates-its-approach-to-former-regime-related-land-and-property-claims>).

<sup>22</sup> Government of Iraq, Council of Ministers Decree Number 262 of 2008, 17 July 2008; Government of Iraq, Prime Minister’s Order 101/S, 3 August 2008. See Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Iraq.”

National Reconciliation, the Baghdad governorate and Baghdad Operations Command with facilitating its implementation. According to the Internal Displacement Monitoring Centre (IDMC), as of January 2010, the two MoDM centers in Baghdad had processed over 3,000 property restitution cases, restoring property in nearly 1,900 cases and rejecting the rest. The low numbers of claims are due to a variety of factors. Approximately 60 percent of IDPs interviewed in 2009 did not seek government assistance to retrieve their property due to lack of necessary documentation, lack of trust in government institutions, fear of retribution or the cost involved.<sup>23</sup>

In July 2009, the prime minister issued Cabinet Order 54 to extend the measures adopted in Baghdad to Diyala governorate, which was also significantly affected by internal displacement, recording the second-highest number of IDP (and of refugee) returnees. Order 54 is more integrated in its approach than Decree 262 and Order 101. Order 54 established a Higher Committee to assist the Diyala governorate, in partnership with international organizations, in creating durable conditions for the return of the displaced through provision of basic services and interventions in agriculture, shelter and infrastructure.<sup>24</sup>

National authorities in Afghanistan have yet to adopt a comprehensive law on internal displacement or any other legislative acts specific to the prevention of internal displacement and mitigation of its effects.<sup>25</sup> Nor have they legally defined or adopted the concept of “internally displaced person.” However, property and land rights of IDPs are either specifically addressed or generally implicated in substantive and procedural

provisions found in a series of executive acts that have been issued since 2001, including the most IDP-specific of them, Presidential Decree No. 104 on Land Distribution for Settlement to Eligible Returnees and Internally Displaced Persons (2005).<sup>26</sup> This decree sets forth a basic framework for distributing government land to IDPs as well as returnees as a means of addressing their needs for shelter. However, this decree requires IDPs seeking access to land to provide their national identity cards (*tazkera*) and documentation proving their internal displacement status; moreover, it does not recognize other fundamental rights or needs of the internally displaced; it is valid only in areas of origin; and its implementation has been marred by inefficiency and corruption within the very weak ministry that is tasked with its implementation.<sup>27</sup> The documentation requirements prevent most IDPs from asserting their rights and participating in the land allocation scheme that the decree envisages because they do not have the necessary documentation. Implementation of these and other decrees related to property, including Decree (Circular Letter) No.4035 on Establishment of the Land Property Dispute Court, has been inconsistent. As a result, they have not proven effective in promoting and protecting the land and property rights of IDPs.<sup>28</sup>

<sup>23</sup> IDMC, *Iraq: Little New Displacement but around 2.8 Million Iraqis Remain Internally Displaced: A Profile of the Internal Displacement Situation*, 4 March, 2010, p. 240 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>24</sup> IOM, *IOM Emergency Needs Assessments—February 22, 2009: Three Years of Post-Samarra Displacement in Iraq*, 22 February 2009, p. 3 (<http://reliefweb.int/node/298489>); UNHCR, “Diyala Initiative” ([www.unhcr.org.iq/02%20Return/diyala.html](http://www.unhcr.org.iq/02%20Return/diyala.html)).

<sup>25</sup> See the Afghanistan case study in chapter 2 of this volume.

<sup>26</sup> For a comprehensive, in-depth discussion of Afghan property and land rights, see Conor Foley, *Guide to Property Law in Afghanistan*, Norwegian Refugee Council, 2005. See also Sheila Reed and Conor Foley, *Land and Property: Challenges and Opportunities for Returnees and Internally Displaced People in Afghanistan*, Norwegian Refugee Council, June 2009; Liz Alden Wily, *Policy Brief: Land and the Constitution*, Afghan Research and Evaluation Union, August 2003.

<sup>27</sup> See further, Brookings-Bern Project on Internal Displacement and Norwegian Refugee Council, *Realizing National Responsibility for the Protection of Internally Displaced Persons in Afghanistan: A Review of Relevant Laws, Policies, and Practices* (November 2010) pp. 13, 23–24, 28–29 ([www.brookings.edu/idp](http://www.brookings.edu/idp)); Ingrid Macdonald, “Landlessness and Insecurity: Obstacles to Reintegration in Afghanistan,” Middle East Institute, 9 February 2011 ([www.refugeecooperation.org/publications/Afghanistan/04\\_macdonald.php](http://www.refugeecooperation.org/publications/Afghanistan/04_macdonald.php)).

<sup>28</sup> See Reed and Foley, *Land and Property: Challenges and*

It is encouraging to note that in Africa, states have recognized the importance of addressing internal displacement by incorporating the Guiding Principles on Internal Displacement into domestic legislation and policy. In fact, this is an obligation for the eleven member states of the International Conference on the Great Lakes Region (ICGLR) that are signatories to the Pact on Security, Stability and Development in the Great Lakes Region and to its Protocol on the Protection and Assistance to Internally Displaced Persons as well as the states parties to the African Union Convention on the Protection and Assistance to Internally Displaced Persons in Africa (Kampala Convention). Uganda, the Central African Republic, the Democratic Republic of the Congo (DRC), Kenya and Sudan have ratified the Great Lakes Pact and its protocols. Uganda played a leading role in the Kampala Convention negotiations and hosted the African Union Special Summit at which the convention was signed in 2009. Of the countries surveyed for this report, only Uganda and the Central African Republic had ratified the Kampala Convention at the time of writing; the DRC had signed it and Kenya had initiated an internal process to prepare for ratification. At the time of writing the Central African Republic was in the process of developing and amending its national legislation to conform to the Principles and Kenya had developed a draft national IDP policy based on the Principles, the ICGLR Protocol on IDPs, the Kampala Convention and existing domestic legislation.

Sri Lanka has no national law addressing internal displacement although a draft bill on protection of internally displaced persons was submitted to the Ministry of Disaster Management and Human Rights in August 2008 by the Sri Lankan Human Rights Commission.<sup>29</sup> The draft bill has not been introduced in Parliament and “there appears to be no urgency on the part of the Government to consider this Bill as it has made no public comment on it nor listed it on the Order Paper

of Parliament for debate.”<sup>30</sup> The bill, if passed, would be known as the Protection of Internally Displaced Persons Act.<sup>31</sup> It would cover all phases of displacement due to conflict, disasters, and development. The draft bill includes specific provisions to protect extremely vulnerable populations among the displaced, such as children, persons with disabilities, and so forth. The draft bill establishes the Internally Displaced Persons Authority as the lead agency for issues related to displacement and designates other responsible institutions.<sup>32</sup> As of July 2011 it did not appear that the government had followed up on the draft.

Other countries surveyed had yet to adopt national legislation specifically addressing internal displacement: Democratic Republic of the Congo, Nepal, Myanmar and Yemen. At a regional meeting on internal displacement held in Botswana in August 2005, a representative of the Ministry for Social Affairs of the Democratic Republic of the Congo noted that in addition to coordination problems, lack of a legislative framework based on the Guiding Principles was hindering progress in mounting an effective national response.<sup>33</sup> In the spirit of the Great Lakes Pact and the Protocol on the Protection and Assistance to Internally Displaced Persons, RSG on IDPs Walter Kälin called on the government of the Democratic Republic of the Congo to

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*Opportunities for Returnees and Internally Displaced People in Afghanistan*, p. 6.

<sup>29</sup> See further the Sri Lanka case study in chapter 2 of this volume.

<sup>30</sup> B. Skanthakumar, “Window-Dressing? The National Human Rights Commission of Sri Lanka,” *LST Review* 262 (August 2009) ([www.lawandsocietytrust.org/web/images/PDF/NHRC%20Report%202009.pdf](http://www.lawandsocietytrust.org/web/images/PDF/NHRC%20Report%202009.pdf)).

<sup>31</sup> National Protection and Durable Solutions for Internally Displaced Persons Project, Protection of Internally Displaced Persons Bill ([www.idpsrilanka.lk/html/SpecialProgrammes/IDP-Bills.htm](http://www.idpsrilanka.lk/html/SpecialProgrammes/IDP-Bills.htm)).

<sup>32</sup> Draft Bill of Protection of Internally Displaced Persons ([www.idpsrilanka.lk/html/SpecialProgrammes/IDP%20Bill/2008%20Aug%2008%20-%20Draft%20IDP%20Bill.pdf](http://www.idpsrilanka.lk/html/SpecialProgrammes/IDP%20Bill/2008%20Aug%2008%20-%20Draft%20IDP%20Bill.pdf)).

<sup>33</sup> Brookings-Bern Project on Internal Displacement, “Regional Seminar on Internal Displacement in the Southern African Development Community (SADC) Region, Gaborone, Botswana, 24–26 August 2005” ([www.brookings.edu/events/2005/0826\\_southern\\_africa.aspx](http://www.brookings.edu/events/2005/0826_southern_africa.aspx) and [www.brookings.edu/fp/projects/idp/SADC\\_rpt.pdf](http://www.brookings.edu/fp/projects/idp/SADC_rpt.pdf)).

incorporate the Guiding Principles into its legal system and to develop “a legislative framework, a strategy and a plan of action for the implementation of the obligations stemming from those Principles.” Kälin and other UN experts reiterated that recommendation in their reports on the situation in the DRC in 2009 and 2010. There is no national legislation specifically addressing internal displacement and the rights of internally displaced persons in Yemen.<sup>34</sup> No data are available to support an analysis of the adequacy of existing laws in Yemen to address issues arising in internal displacement or to protect the rights of IDPs.

In addition to considering legislation specific to internal displacement and regardless of whether any such legislation has been adopted, it is important to examine how general national legislation that is not specific to displacement can impact the rights of IDPs. Such legislation ranges from constitutions to presidential decrees, electoral laws, laws on education and criminal codes. For example, in Georgia the above-mentioned study of the compatibility of national legislation with the Guiding Principles was required to consider not only the Law on Forcibly Displaced Persons–Persecuted Persons but also the Constitution and more than 200 normative acts adopted between 1992 and 2002 that had provisions relevant to IDPs’ enjoyment of their rights. Any update of this study would also need to consider all subsequent relevant legislation. Similar “legal audits” of national legislation undertaken in 2010 in Afghanistan and the Central African Republic likewise needed to examine a wide range of legislative acts; in the case of the Central African Republic, for example, the list included the Nationality Code, the Family Code, the Penal Code, the Electoral Code, the Environment Code, the Forestry Code, the Mining Code, and the Petroleum Code.<sup>35</sup>

<sup>34</sup> IDMC, “Internal Displacement: Global Overview of Trends and Developments in 2009,” May 2010, p. 24 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>35</sup> Erin D. Mooney, *Examen du cadre législatif en République Centrafricaine relatif à la protection des personnes déplacées à l’intérieur de leur propre pays: Audit Juridique*

Conducting such an extensive legal review for all fifteen countries was not possible within the scope of this study. Nonetheless, some preliminary findings warrant a mention. For example, a cursory review of Turkey’s Criminal Code did not reveal any provisions—as do exist, for instance, in the Central African Republic and Colombia—for the criminalization of forced or arbitrary displacement, with the potential exception of Article 109.1, which may guarantee IDPs’ right to the freedom of movement. It states: “Any person who unlawfully restricts the freedom of a person by preventing him from traveling or living in a place is sentenced to imprisonment from one year to five years.”<sup>36</sup> In Nepal, under the Interim Constitution (2007), the government has the responsibility “to conduct special programs to rehabilitate the displaced, to provide relief for damaged private and public property and to reconstruct the infrastructures destroyed during the course of the conflict.”<sup>37</sup> While electoral legislation in Nepal (as in Georgia) was amended to address discrimination against IDPs in exercising their voting rights, there have been no amendments to account for the specific residency and documentation needs of IDPs. South Sudan’s Land Act recognizes the right to restitution and compensation for those forcibly displaced after 1983, guaranteeing that “[a] person may be entitled to restitution of a right in land if he or she lost her or his right after an involuntary displacement as a result of the civil war starting from May 16, 1983,” regardless of whether the person’s land was taken by an individual or the government. The Land Act also extends the right of restitution to individuals other than the primary owner, including family members at the time of displacement, spouses and legal heirs; however,

(Washington, D.C.: Brookings-Bern Project on Internal Displacement, February 2011) ([www.brookings.edu/reports/2010/11\\_car\\_audit\\_juridique.aspx](http://www.brookings.edu/reports/2010/11_car_audit_juridique.aspx)); Brookings-Bern Project on Internal Displacement and the Norwegian Refugee Council, *Realizing National Responsibility for the Protection of Internally Displaced Persons in Afghanistan: A Review of Relevant Laws, Policies, and Practices* November 2010 ([www.brookings.edu/reports/2011/11\\_afghan\\_national\\_responsibility.aspx](http://www.brookings.edu/reports/2011/11_afghan_national_responsibility.aspx)).

<sup>36</sup> International Criminal Court, *Criminal Code of the Republic of Turkey*, Legal Tools–Database Record No. 117120, June 2010 ([www.legal-tools.org/doc/dbffd5/](http://www.legal-tools.org/doc/dbffd5/)).

<sup>37</sup> Interim Constitution of Nepal 2063 (2007), 3.33(r).

claimants are limited to filing requests within three years from the date that the act entered into force.<sup>38</sup> Traditional procedures and customary law and practices are also accepted as restitution mechanisms. Compensation in cash or in kind is available in instances in which the government was not able to grant restitution “for some obvious reasons as the Commission [Southern Sudan Land Commission] finds appropriate.”<sup>39</sup>

In surveying legislation that is not specific to displacement, special attention must be paid to legislation put in place to address the security situation in conflict areas and to assessing whether it violates the rights of IDPs or could do so. In Turkey, Village Law No. 442 of 1924 and its subsequent amendments brought forth a “village guard” paramilitary system in 1985, under which serious human rights violations, including displacement, have been committed and the return of Kurds displaced from their villages during the 1990s has been impeded. Further, it has impeded achievement of an overall resolution to the problem of internal displacement in the country.<sup>40</sup> While the government of Turkey has promised since 2002 to abolish the system, recruitment of village guards has continued. For example, in June 2007, an amendment to the Village Law came into effect permitting the recruitment of up to 60,000 village guards; recruitment continued in 2010.<sup>41</sup> Moreover,

while the 2001 Constitution of the Republic of Turkey guarantees that “[e]veryone has the right to freedom of residence and movement,” “freedom of residence may be restricted by law for the purpose of,” among other things, “preventing offences, promoting social and economic development, ensuring sound and orderly urban growth, and protecting public property.”<sup>42</sup> In Myanmar, the subjugation of minority groups has been an objective of the Burman majority since negotiations for independence, with cleavages evident since British rule and during World War II. Matters were exacerbated by the 1947 Constitution of the Socialist Republic of the Union of Burma, which gave unequal rights to different ethnic groups. While the 2008 Constitution of the Republic of the Union of Myanmar provides the potential for limited ethnic autonomy, it ensures the domination by the military of the national government.<sup>43</sup>

At least two of the countries surveyed, Colombia and Kenya, had mechanisms in place by which IDPs can file legal cases or complaints about respect for their rights. In Colombia, the constitutional complaint process—the *acción de tutela* petition procedure—has made the government accountable to IDPs and has influenced government policy toward IDPs, including the policy

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<sup>38</sup> Government of Southern Sudan, Land Act, 2009, Chapter XIII, 78(1), (2), (3), (4); copy on file with the authors.

<sup>39</sup> *Ibid.*, Chapter XIII, 80 (1), (2).

<sup>40</sup> See further, Kurdish Human Rights Project, *Turkey's Village Guard System: Still in Place, Still an Obstacle*, March 2011 ([www.khrp.org](http://www.khrp.org)); Dilek Kurban and others, *Coming to Terms with Forced Migration: Post-Displacement Restitution of Citizenship Rights in Turkey*, Turkish Economic and Social Studies Foundation (TESEV), August 2007, p. 18 ([www.tesev.org.tr/UD\\_OBJS/PDF/DEMP/ENG/comingto termswithforcedmigration.pdf](http://www.tesev.org.tr/UD_OBJS/PDF/DEMP/ENG/comingto termswithforcedmigration.pdf)).

<sup>41</sup> Kurdish Human Rights Project, *Turkey's Village Guard System: Still in Place, Still an Obstacle; Official Gazette, Köy Kanununda ve Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun* [Law Concerning Amendments Brought to the Law on Villages and Some Other Laws], No. 5673, 27 May 2007 (<http://rega.basbakanlik.gov.tr/Eskiler/2007/05/20070527-2.htm>), cited in Dilek Kurban

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and others, *Coming to Terms with Forced Migration*, p. 18. According to TESEV, “the position of provisional village guards was created on 26 March 1985 through a clause added by Law no. 3175 to the 1924 Village Law (Law no. 442)”; see Dilek Kurban, Ayşe Betül Celik, and Deniz Yüksek, *Overcoming a Legacy of Mistrust: Toward Reconciliation between the State and 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 Turkey*, Internal Displacement Monitoring Centre/Turkish Economic and Social Studies Foundation, June 2006, p. 20. See also Council of Europe, Commissioner for Human Rights, “Letter from the Council of Europe Commissioner for Human Rights to Mr. Beşir Atalay, Minister of Interior of the Republic of Turkey,” 8 June 2010, CommHR/SG/sf 132-2010 ([www.coe.int/t/commissioner/default\\_en.asp](http://www.coe.int/t/commissioner/default_en.asp)).

<sup>42</sup> Article 23, as amended on October 17, 2001.

<sup>43</sup> See, for example, Amnesty International, *The Repression of Ethnic Minority Activists in Myanmar*, February 2010 ([www.amnesty.org](http://www.amnesty.org)).

of allocation of government assistance such as housing subsidies.<sup>44</sup> This judicial defense mechanism has led the Constitutional Court since 1997 to address *tutela* cases invoking specific human rights such as access to basic services, the right to life, and freedom of movement. *Tutela* petitions gave rise to a landmark decision by the Constitutional Court in 2004, Decision T-025, in which the court recognized the extent of violations of the fundamental rights of the country's internally displaced population and declared that "unconstitutional state of affairs" had arisen due to insufficient government capacity and allocation of funds. That finding compelled the government to increase its budgetary allocation for IDPs (see also Benchmark 11) significantly—by a factor of 8 in fixed dollars.<sup>45</sup> Over 1,200 *tutelas* had been filed by 2009.<sup>46</sup> The Kenya National Human Rights

Commission receives complaints of human rights violations, including from IDPs, through petitions to the commission or the relevant department of government; the petitions point to provisions in the law that, due to gaps or gray areas, undermine IDPs' access to their rights and therefore may require revision.<sup>47</sup>

In recognition of the importance of developing national legal frameworks for internal displacement, for several years now the UN General Assembly and UN Human Rights Council (formerly the Commission on Human Rights) as well as regional organizations as examined above have encouraged governments to develop laws based on the Guiding Principles to protect the rights of IDPs.<sup>48</sup> International actors—in particular RSGs on IDPs Francis Deng and Walter Kälin and the RSG's successor, UN Special Rapporteur on the Human Rights of IDPs Chaloka Beyani, UNHCR, and the Brookings Project on Internal Displacement—have provided technical assistance to support such efforts. Given the number of countries experiencing internal displacement and the time and technical expertise required to review and recommend amendments to legal frameworks to ensure IDPs' access to their rights, much more attention to and support for implementation of this benchmark are required.

<sup>44</sup> As Colombian Constitutional Court Judge Manuel José Cepeda-Espinosa explains, "Among the constitutional mechanisms to ensure the effective exercise of human rights is the *acción de tutela*, a petition procedure, which enables any person whose fundamental constitutional rights are being threatened or violated to request judicial protection of their fundamental rights. Citizens may file informal claims without an attorney, before any judge in the country with territorial jurisdiction. That judge is legally bound to give priority attention to the request over any other case. Judges have a strict deadline of ten days to reach a decision and, where appropriate, to issue a mandatory and immediate order." Citation from Manuel José Cepeda-Espinosa, "The Constitutional Protection of IDPs in Colombia," in Rodolfo Arango Rivadeneira, *Judicial Protection of Internally Displaced Persons: The Colombian Experience*, p. 8, (Washington, D.C.: Brookings-Bern Project on Internal Displacement, November 2008) ([www.brookings.edu/idp](http://www.brookings.edu/idp)).

<sup>45</sup> Manuel José Cepeda-Espinosa, Constitutional Court of Colombia, "The Judicial Protection of IDPs in Colombia: The Importance of the Guiding Principles," statement presented at the conference "Ten Years of the Guiding Principles on Internal Displacement," Oslo, Norway, 16 October 2008.

<sup>46</sup> Figure is from the court's information system. Cited in Rodolfo Arango Rivadeneira, *Judicial Protection of Internally Displaced Persons: The Colombian Experience*, p. 250, (Washington, D.C.: Brookings-Bern Project on Internal Displacement, November 2008) ([www.brookings.edu/idp](http://www.brookings.edu/idp)); Manuel José Cepeda-Espinosa, "How Far

May Colombia's Constitutional Court Go to Protect IDP Rights?" *Forced Migration Review*, Special Issue (December 2006), pp. 21–23 ([www.fmreview.org](http://www.fmreview.org)).

<sup>47</sup> See further the Kenya case study in chapter 2 of this volume.

<sup>48</sup> See, for example, UN General Assembly Resolution 60/168; UN HRC Resolution 2005/46.

## Conclusion

One of the most encouraging signs of governments taking seriously their responsibility to address internal displacement has been the development, adoption and implementation in all regions of the world of numerous IDP-specific laws and decrees that respect the rights of IDPs. These developments reflect a growing realization that internal displacement must be addressed at the national level, both as a matter of legal obligation and national interest. Further, as RSG Walter Kälin remarked, “With the adoption of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), the demand for the elaboration of national policies and legislation relating to internal displacement is expected to increase.”<sup>49</sup> While this development would be commendable, as witnessed elsewhere in Africa and throughout the world it is important that legislation be translated into tangible action that respects the basic human rights of IDPs.

The legislation of the countries surveyed for this study tends to protect a specific right of the internally displaced (as in Georgia, Turkey, Afghanistan, and Iraq); in others, legislation seeks to comprehensively address all causes and stages of displacement (laws in Georgia and Colombia, both of which passed some of the earliest legislation on IDPs, most closely approximate this). In all of the countries there are notable limitations to the scope of the laws and gaps in implementing them, but nonetheless it is important that states have taken legal measures to recognize internal displacement and their responsibilities to protect and assist internally displaced persons. However, laws on internal displacement must also be viewed in the context of other (non-IDP specific) national laws applicable to their populations, including IDPs, which this study, including the four expanded case studies, has sought to examine to the extent possible.

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<sup>49</sup> UN General Assembly, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons*, A/65/282, 11 August 2010, para. 24 ([www.brookings.edu/projects/idp/rsg\\_info.aspx](http://www.brookings.edu/projects/idp/rsg_info.aspx)).



Nyala, South Darfur, Sudan / A South Sudan Referendum Commission (SSRC) staff member controls the queue to the Giyada polling center in the first day of the referendum on the self-determination of Southern Sudan.  
Photo: Albert González Farrzn



## Benchmark 6

### Develop a National Policy on Internal Displacement

#### ***Has the national government adopted a policy or plan of action to address internal displacement?***

While legislative action on internal displacement, as addressed in Benchmark 5, is encouraged, laws alone are usually insufficient to meet the needs of IDPs. Legislation should therefore be accompanied by national policies, strategies, or plans of action that support timely responses to internal displacement crises through measures requiring neither legal amendment nor the passage of new legislation. Such measures may be appropriate in lieu of formal legislation, or they may be used to elaborate and implement legislation already adopted.

While the content of policies or strategies will vary depending on the cause and phase of displacement, they should uphold and reflect the Guiding Principles on Internal Displacement and provide a clear overall framework for organizing the response to internal displacement. In particular, such policies or strategies should

- be based on and consistent with relevant international, regional and national legal standards, while identifying priorities for drafting and amending national legislation to ensure compatibility with international and regional standards

- identify priority objectives and planned actions by the government for addressing internal displacement and indicate the timeline for doing so, which should be further detailed in a plan of action for implementing the policy or strategy

- specify the responsibilities of national and local government departments or agencies for implementation of policy

- designate, or reconfirm, an institutional focal point for national coordination of the response to displacement and thus for overseeing and coordinating implementation of the national policy or strategy

- specify the source of funds to be used for implementation

- indicate measures for periodic review and, as necessary, revision of the national policy or strategy and plan of action.

A comprehensive national policy on internal displacement should encompass the various causes of displacement and address all phases of displacement, including actions to prevent arbitrary displacement, to ensure protection and assistance during displacement and to secure durable solutions to displacement. It should also address the needs of specific groups, such as children or indigenous groups.

National policies or strategies are more effective when developed in consultation with IDPs and civil society actors. However, the findings of this study suggest that notwithstanding a few notable exceptions, meaningful consultation with IDPs in the policy development process rarely has been implemented in any systematic way.

In addition, there are several cases in which dissemination of such policies has been limited, not only to IDPs but also in many cases to government officials, especially at the local level, who have responsibilities related to the implementation of these policies.

### Overview of research findings

Nine of the countries surveyed had developed at some point a specific policy, strategy or plan on internal displacement: Afghanistan, Colombia, Georgia, Iraq, Pakistan, Sri Lanka, Sudan, Turkey and Uganda. In Pakistan and Turkey, the policy is a regional, not a national, policy; in both of these cases, the development

of a national policy has been recommended. Two countries currently have such policies in draft form: Kenya and Yemen. The policies of Georgia, Kenya, Iraq, Nepal, Yemen, Sudan and Uganda explicitly indicate that they are based not only on national legislation but also on relevant international standards, including the Guiding Principles.

In Colombia, recognition by the government of its responsibilities toward the internally displaced has been reflected in a number of policy documents since 1995, which form part of its sophisticated legal and policy framework on IDPs. The government has made remarkable progress in addressing internal displacement, especially since 1994 when Representative of the Secretary-General on Internally Displaced Persons (RSG) Francis Deng undertook his first mission to Colombia and found the government to be lacking any “collective willingness” to deal with the problem. However, it has fallen short in implementation. The government’s shortcomings in implementation have been noted to varying degrees by RSG Deng and RSG Walter Kälin following their missions to Colombia in 1999 and 2006, respectively.<sup>1</sup>

An executive branch body, the National Council for Economic and Social Policy (Consejo Nacional de Política Económica y Social, CONPES) adopted in 1995 the National Program for Comprehensive Assistance to the Population Displaced by Violence. However, various structural problems hampered its effectiveness, prompting CONPES to develop a second policy

in May 1997, the National System for Comprehensive Assistance to the Population Displaced by Violence, which was adopted by the Ministry of the Interior, the Presidential Adviser for the Displaced, the Presidential Adviser on Human Rights, the Presidential Adviser for Social Policy and the National Department of Planning. The national “system” was to address the problem of internal displacement and set forth a strategy of prevention, immediate assistance, and “consolidation and socioeconomic stabilization.” These two CONPES initiatives together with other policy initiatives outlined in various decrees were formalized and consolidated in the National Plan for Comprehensive Assistance to the Population Displaced by Violence, outlined in Law 387 and adopted by Congress on 18 July 1997. The plan was to be designed within six months.<sup>2</sup>

As envisioned, in January 1998, Colombia adopted by decree the National Plan for Comprehensive Assistance to the Population Displaced by Violence to implement Law 387.<sup>3</sup> The plan established strategies to address internal displacement, including provisions for prevention, humanitarian assistance, “socioeconomic consolidation and stabilization,” and durable solutions. It identified authorities responsible for implementing the plan,

<sup>1</sup> UN Commission on Human Rights, *Internally Displaced Persons: Report of the Representative of the Secretary-General, Mr. Francis Deng, Submitted Pursuant to Commission on Human Rights Resolution 1993/95–Addendum: Profiles in Displacement: Colombia*, E/CN.4/1995/50/Add.1, 3 October 1994, p. 33 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)); UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin–Addendum: Mission to Colombia*, A/HRC/4/38/Add.3, 24 January 2007 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)).

<sup>2</sup> Government of Colombia, National Department of Planning, *Documento CONPES 2804: Programa Nacional de Atención Integral a la Población Desplazada por la Violencia*, 13 September 1995; citation from Government of Colombia, National Department of Planning, *Documento CONPES 2924: Sistema Nacional de Atención Integral a la Población Desplazada por la Violencia*, 28 May 1997. See also: UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons Submitted in accordance with Commission Resolution 1999/47–Addendum: Profiles in Displacement: Follow-up Mission to Colombia*, E/CN.4/2000/83/Add.1, 11 January 2000, paras. 40–41, p. 11 ([www.brookings.edu/projects/idp.aspx](http://www.brookings.edu/projects/idp.aspx)).

<sup>3</sup> Decree 173 of 26 January 1998 adopting the National Plan for Comprehensive Assistance to the Population Displaced by Violence, available at Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Colombia” ([www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx)).

which include the National Council for Comprehensive Assistance to the Population Displaced by Violence (Consejo Nacional para la Atención Integral de la Población Desplazada por la Violencia), the Office of the Special Administrative Unit for Human Rights of the Ministry of the Interior, the Social Solidarity Network, and the Ministry of Agriculture and Rural Development. Responsibilities of local authorities are not specifically outlined. However, the plan does call for the design of committees to assist displaced populations at the district and municipal levels.<sup>4</sup> In March 1998, another decree provided for the allocation of 40 billion pesos (\$30.7 million) to address the problem of internal displacement in accordance with Law 387.<sup>5</sup>

In 2004, the Constitutional Court declared that the gap between the rights guaranteed to IDPs and the government's capacity to protect those rights was an "unconstitutional state of affairs" and ordered the government to redress the situation (see Benchmark 5).<sup>6</sup> In 2005, Decree 250 was adopted, creating a new version of and replacing the 1998 plan. This new plan, also named the National Plan for Comprehensive Assistance to the Population Displaced by Violence, includes provisions on IDP participation, different treatment based on needs, attention to extremely vulnerable groups, recognition of the role of the Ombudsman's Office, and the strengthening of the Inter-Institutional Committee for Early Warnings.<sup>7</sup> While there have been improvements

in meeting the needs of IDPs through the National Plan, the majority of local authorities continue to lack sufficient resources, training and budget allocations to fully implement it.<sup>8</sup> Indeed, RSGs Deng and Kälin have commended the government of Colombia's progress in adopting laws and policies on IDPs over the years, but they have also stated that the government has fallen short of fully implementing them; accordingly, they have issued a series of recommendations to improve implementation.<sup>9</sup>

The government of Uganda adopted the National Policy for Internally Displaced Persons in 2004. Based explicitly on the Guiding Principles, the policy covers all phases of displacement due to conflict as well as displacement caused by man-made and natural disasters. The policy recognizes the right of safe and voluntary return or resettlement. For planning and coordination, the policy established the Inter-Agency Technical Committee, composed of the Office of the Prime Minister, relevant ministries, the private sector, UN agencies, NGOs and donors. The Department of Disaster Preparedness and Refugees is identified as the lead institution for implementation of the policy; it is to be "responsible for monitoring, supervising and evaluating activities of sectoral lead agencies, national and international humanitarian and development agencies in all matters related to management of Internal Displacement."<sup>10</sup> The policy does not include provisions for its regular review or revision.<sup>11</sup> While the policy is otherwise rather com-

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<sup>4</sup> Government of Colombia, Decree 172 of 1998, available at Brookings-LSE Project on Internal Displacement, "National and Regional Laws and Policies on Internal Displacement: Colombia."

<sup>5</sup> Decree 501 of 13 March 1998, available at Brookings-LSE Project on Internal Displacement, "National and Regional Laws and Policies on Internal Displacement: Colombia."

<sup>6</sup> See further, Rodolfo Arango Rivadeneira, *Judicial Protection of Internally Displaced Persons: The Colombian Experience* (Washington, D.C.: Brookings-Bern Project on Internal Displacement, November 2009) ([www.brookings.edu/papers/2009/11\\_judicial\\_protection\\_arango.aspx](http://www.brookings.edu/papers/2009/11_judicial_protection_arango.aspx)).

<sup>7</sup> Government of Colombia, *Decreto 250, Plan Nacional Atención Integral a la Población Desplazada*, 7 February 2005, available at Brookings-LSE Project on Internal Displacement, "National and Regional Laws and Policies

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on Internal Displacement: Colombia."

<sup>8</sup> Elizabeth Ferris, "The Role of Municipal Authorities in Addressing Internal Displacement," *Forced Migration Review*, no. 33, February 2010 ([www.fmreview.org](http://www.fmreview.org)).

<sup>9</sup> See RSG reports from 2000 and 2007 and for comparison, from 1994, available at the OHCHR website ([www2.ohchr.org/english/issues/idp/visits.htm](http://www2.ohchr.org/english/issues/idp/visits.htm)) and the Brookings-Bern Project on Internal Displacement website ([www.brookings.edu/idp](http://www.brookings.edu/idp)).

<sup>10</sup> Republic of Uganda, *National Policy for Internally Displaced Persons*, August 2004, § 4.1.1.

<sup>11</sup> Government of Uganda, Office of the Prime Minister, Department of Disaster Preparedness and Refugees, *National Policy for Internally Displaced Persons*, August 2004, available at Brookings-LSE Project on Internal

prehensive, closely resembling the Guiding Principles on Internal Displacement and often even restating specific principles verbatim, implementation has been insufficient.

A workshop organized in 2006 by the Brookings-Bern Project on Internal Displacement on the implementation of Uganda's national IDP policy identified security, law and order, political will and government participation, coordination and communication, resources and fiscal management, social services, land, and amnesty as key challenges to implementing the policy.<sup>12</sup> These findings were reiterated in a joint report of the Refugee Law Project of Uganda and the Internal Displacement Monitoring Centre (IDMC) in 2006, which found that inadequate funding, coordination and accountability were obstacles to proper implementation.<sup>13</sup>

Ugandan authorities have taken some steps to improve implementation of the policy since 2006; however, in terms of the present post-displacement phase, full and effective implementation continues to be hindered by limited funding and coordination between districts and the central government.<sup>14</sup> In 2006, the government replaced the Inter-Agency Technical Committee with the Joint Monitoring Committee to develop and oversee

the implementation of the Emergency Humanitarian Action Plan for the National Policy. In 2007, the Joint Monitoring Committee developed a transition strategy at the parish level, the "Parish Approach." Endorsed by the IASC country team in August 2007, this approach shifted the focus on humanitarian assistance in IDP camps to the provision of basic services in all parishes for original villagers, returnees and IDPs. Clusters assisted in the implementation of the Parish Approach.<sup>15</sup>

In February 2007 the government of Georgia adopted the State Strategy for Internally Displaced Persons—Persecuted.<sup>16</sup> Given the protracted nature of internal displacement in the country, dating back to the early 1990s, the focus of the strategy is on durable solutions to displacement. More specifically, it has two main objectives: to facilitate the safe return, when conditions allow, of IDPs to their pre-war homes; and, in a significant departure from the government's long-time emphasis on return only, to support improved living conditions and local integration of IDPs in their place of displacement or in other parts of Georgia, without undermining IDPs' right to return, whenever conditions allow.<sup>17</sup> The state strategy designates the Ministry for Refugees and Accommodation (MRA), the existing IDP institutional focal point, with the responsibility for coordinating implementation of the strategy and the action plan.<sup>18</sup> In March 2009, a steering committee on IDPs, chaired by the Minister for Refugees and Accommodation working with the Ministry of Justice, Ministry of Finance, the Municipal Development Fund, international partners, NGOs and civil society groups, was established to assist the MRA in performing its role.

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Displacement, "National and Regional Laws and Policies on Internal Displacement: Uganda," ([www.brookings.edu/projects/idp/Laws-and-Policies/uganda.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/uganda.aspx)); citation from § 4.1.1.

<sup>12</sup> Brookings-Bern Project on Internal Displacement, *Workshop on the Implementation of Uganda's National Policy for Internally Displaced Persons*, Kampala, Uganda 3–4 July 2006 ([www.brookings.edu/fp/projects/idp/conferences/Uganda\\_Workshop2006\\_rpt.pdf](http://www.brookings.edu/fp/projects/idp/conferences/Uganda_Workshop2006_rpt.pdf)).

<sup>13</sup> IDMC and Refugee Law Project, "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 the Internally Displaced Persons Following His Visit to Uganda," 2nd ed., October 2006 ([www.refugeelawproject.org/others/RLP.IDMC2.pdf](http://www.refugeelawproject.org/others/RLP.IDMC2.pdf)).

<sup>14</sup> IDMC, *Uganda: Returns Outpace Recovery Planning: A Profile of the Internal Displacement situation*, 19 August 2009 ([www.internal-displacement.org](http://www.internal-displacement.org)).

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<sup>15</sup> Julia Steets and François Grünwald, *IASC Cluster Approach Evaluation, 2nd Phase, Country Study: Uganda*, April 2010 (<http://reliefweb.int/node/356858>).

<sup>16</sup> For further analysis on the policies discussed herein and other relevant policies, see the Georgia case study in chapter 2 of this volume.

<sup>17</sup> Government of Georgia, Decree No. 47 of 2 February 2007 on Approving of the State Strategy for Internally Displaced Persons—Persecuted, available at Brookings-LSE Project on Internal Displacement, "National and Regional Laws and Policies on Internal Displacement: Georgia" ([www.brookings.edu/projects/idp/Laws-and-Policies/georgia.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/georgia.aspx)).

<sup>18</sup> State Strategy for IDPs, Chapter VII.

An action plan called for in the State Strategy was adopted in July 2008—just weeks before renewed conflict—but it was not as comprehensive in scope as outlined in the State Strategy in that it focused almost entirely return. However, the government revised the plan and in May 2009 adopted the more comprehensive State Action Plan for Implementation of the National Strategy on Internally Displaced Persons, which was revised in May 2010 to expand the housing strategy and the focus on livelihoods support.

In February 2007, the government of Nepal adopted the National Policy on Internally Displaced Persons. The policy, following a recommendation by RSG Walter Kälin following his 2005 mission to the country,<sup>19</sup> explicitly refers to the Guiding Principles on Internal Displacement; it is correspondingly comprehensive scope, recognizing displacement due to conflict and natural and man-made disasters and covering all phases of displacement.<sup>20</sup> Prior to the policy the government recognized as IDPs only people uprooted by the actions of Maoist insurgents and therefore did not recognize as IDPs those displaced by the government and its security forces; as a result, assistance was restricted to those displaced by Maoists. However, that discriminatory and politically motivated approach now has been corrected with the more inclusive definition of IDP adopted in the national IDP policy. An ongoing problem, however, is that while the policy contains provisions for safe and voluntary return, reintegration, or resettlement, government assistance is available only to those seeking to return.<sup>21</sup>

<sup>19</sup> UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to Nepal*, E/CN.4/2006/71/Add.2, 7 January 2006, para. 67 ([www.brookings.edu/projects/idp/rsg\\_info.aspx#Kalin](http://www.brookings.edu/projects/idp/rsg_info.aspx#Kalin)).

<sup>20</sup> Government of Nepal, *National Policy on Internally Displaced Persons, 2063 (2007)*, Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Nepal” ([www.brookings.edu/projects/idp/Laws-and-Policies/nepal.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/nepal.aspx)).

<sup>21</sup> IDMC, *Nepal: Failed Implementation of IDP Policy*

The national policy is generally considered to be a solid policy; the primary problem is its implementation. To a certain extent, the government of Nepal has taken steps to address the problem. In July 2007, representatives of the Ministry of Peace and Reconstruction (MoPR) and other line ministries formed a task force to develop a set of procedural guidelines for proper policy implementation (IDP Policy Directives) with support from the UN High Commissioner for Refugees (UNHCR), the High Commissioner for Human Rights (OHCHR), the Office for the Coordination of Humanitarian Affairs and the Norwegian Refugee Council.<sup>22</sup> The directives clarify the procedures to be followed by all service providers, facilitate program implementation by incorporating and systematizing institutional mechanisms, and set out clear and consistent procedures for IDPs to acquire their entitlements and to access services. They include regulatory mechanisms for registration and de-registration of IDPs and provisions to give every IDP an informed choice vis-à-vis all three durable solutions.<sup>23</sup> At the end of 2007, MoPR submitted the IDP Policy Directives to the Cabinet for approval, but as of July 2011 they had not been approved. In early 2010, MoPR reviewed and revised the IDP Policy Directives to resubmit to the Cabinet. At the time of writing, the process of revising both the National Policy on Internally Displaced Persons and the IDP Policy Directives is reportedly making little progress as it is stuck at the MoPR. Moreover, according to a field assessment by the Nepal IDP Working Group, few government officials were even aware of the national policy or its contents, including many of those directly responsible for its implementation, and only 35 percent of IDPs and returnees surveyed were aware of the national IDP policy.<sup>24</sup>

*Leaves Many Unassisted*, January 2010 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>22</sup> Nepal IDP Working Group, *Distant from Durable Solutions: Conflict-Induced Internal Displacement in Nepal*, June 2009 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>23</sup> Ibid.

<sup>24</sup> Ibid, pp. 34-38.

In terms of policy development, Afghanistan<sup>25</sup> was seemingly more active on the issue of internal displacement at a national level several years ago than it has been in recent times. In 2003, the government of Afghanistan committed itself to the Guiding Principles through its Regional Operational Plan (2003) for the south of the country, which states that “the UN Guiding Principles on Internal Displacement are to be adhered to by the Afghan State to promote and seek permanent solutions for IDPs.” In 2005, the Consultative Group on Returnees, Refugees, and IDPs endorsed the National IDP Plan and Policy, which emphasized durable solutions and affirmed the government’s responsibility to address internal displacement. This group was reportedly the mechanism that facilitated coordination between the government and the United Nations as of April 2003. The National IDP Plan and Policy was an initiative of the Ministry of Rural Rehabilitation and Development, the Ministry of Refugees and Repatriation, and the Ministry of Frontiers and Tribal Affairs, which was supported by UNHCR, the UN Development Programme, the World Food Programme, and the UN Assistance Mission in Afghanistan. The Consultative Group also agreed to respect the Guiding Principles. However, both the Regional Operational Plan and the National IDP Plan and Policy are defunct.<sup>26</sup>

Within the Afghanistan National Development Strategy, the Afghan government adopted the Refugee Return and IDP (RRI) Sector Strategy, thereby committing itself to ensuring durable return and reintegration for the displaced. Accordingly, the relevant ministries commit to incorporate returnee requirements into their national development programs. The RRI Strategy was also affirmed in Kabul at an International Conference on Return and Reintegration in November 2008.

The government of Sudan adopted the National Policy on Internally Displaced Persons in January 2009, which refers to and generally incorporates the UN Guiding

Principles on Internal Displacement. While the policy focuses in large measure on South Sudan, as follow-up to implementation of the Comprehensive Peace Agreement, it was intended to apply to all levels of government throughout the entire country. The national policy recognizes the civil and political as well as economic, social and cultural rights of the country’s IDPs. It strives to promote voluntary settlement and reunification of IDP families and to involve affected groups and communities in planning programs and projects that seek to respond to their needs. By promoting reintegration, the government seeks to establish sustainable peace and development programs that reduce relief dependency and encourage self-reliance.<sup>27</sup> Nevertheless, the policy’s implementation as of 2011 has been largely stalled.

In July 2008, the government of Iraq adopted the National Policy on Displacement, which creates a framework focused on protection during displacement, but also includes some elements that could support durable solutions (for example, with respect to property and compensation.) The policy covers those displaced before 2003—“‘transferred/relocated populations,’ i.e., those who were forced to leave their homes as a result of state policies”—and those displaced after 2003.<sup>28</sup> Notably, the policy defines IDPs in accordance with the Guiding Principles and states that assistance, monitoring and pursuit of durable solutions are to be undertaken in accordance with the principles. Included in the policy are provisions outlining government responsibilities to address displacement. The Ministry of Displacement and Migration is responsible for coordinating, monitoring, and overseeing the implementation of the policy. The role of local authorities, however, is

<sup>25</sup> See further, Afghanistan case study in chapter 2 of this volume.

<sup>26</sup> Key informant interview, July 2011.

<sup>27</sup> For full text, see Brookings-Bern Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Sudan” ([www.brookings.edu/projects/idp/Laws-and-Policies/sudan.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/sudan.aspx)).

<sup>28</sup> Sections 2.1.1, 2.1.2; see full text of policy at Brookings-Bern Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Iraq” ([www.brookings.edu/projects/idp/Laws-and-Policies/iraq.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/iraq.aspx)).

not specified.<sup>29</sup> To date, the policy's implementation has been largely inadequate. A detailed national action plan to facilitate the plan's implementation was to be developed after its adoption; however, as of July 2011 no such plan had been completed.<sup>30</sup>

The government has also sought to resolve internal displacement, either directly or indirectly, through other national strategies. At the time of writing, the Ministry of Displacement and Migration was in the process of developing a national shelter strategy, focusing on IDPs and returnees. Also of relevance to resolving internal displacement is the Iraq National Development Plan (2010–2014) which recognizes “displaced families” as among the vulnerable as well as, more specifically, the effect displacement and migration have had on women and youth, and sets forth some broad measures to improve their socioeconomic standing.<sup>31</sup>

The government of Turkey has not developed a comprehensive national policy, but it has developed a series of policies on IDPs since the 1990s. The government launched the Return to Village and Rehabilitation Project (RVRP) in 1994 (although implementation did not really commence until 1999) to provide social and economic infrastructure and income assistance for returnees. However, the RVRP falls short of being in line with the Guiding Principles. The project has been criticized on many grounds, including for lack of transparency, reflected in the dearth of any official written

material explaining it, and for not truly envisioning “return” but rather the resettlement of former village guards to “central villages” to control the Kurdish population. In addition, Human Rights Watch has criticized the RVRP’s “arbitrary” and “inconsistent” assistance, which, when provided, has been inadequate.<sup>32</sup>

Representative of the Secretary-General on Internally Displaced Persons Francis Deng recommended following his 2002 mission to Turkey the “clarification and dissemination of government policy on internal displacement.” In December 2004, the government established a commission to develop a framework document on internal displacement. The commission was composed of representatives from the Interior Ministry, the Foreign Ministry, the State Planning Organization, the South-Eastern Anatolia Project and the State Institute of Statistics. The commission consulted with the provincial governors of Eastern and South-Eastern Anatolia, the United Nations and the European Commission’s delegation to Turkey. The government first publicly indicated its intent to put forth a national strategy on internal displacement during RSG Walter Kälin’s working visit to Turkey in May 2005. In August 2005, the Council of Ministers adopted a framework document on IDPs entitled “Measures on the Issue of IDPs and the Return to Village and Rehabilitation Project in Turkey” (or the Integrated Strategy Document), which

<sup>29</sup> Government of Iraq, Ministry of Displacement and Migration, *National Policy on Displacement*, July 2008.

<sup>30</sup> See further: Brookings-Bern Project on Internal Displacement, *Resolving Iraqi Displacement: Humanitarian and Development Perspectives*, February 2010, ([www.brookings.edu/~media/Files/rc/reports/2010/0216\\_iraqi\\_displacement/0216\\_iraqi\\_displacement.pdf](http://www.brookings.edu/~media/Files/rc/reports/2010/0216_iraqi_displacement/0216_iraqi_displacement.pdf)); IDMC, *Iraq: Little New Displacement but around 2.8 Million Iraqis Remain Internally Displaced*, March 2010 ([www.internal-displacement.org/](http://www.internal-displacement.org/)); Refugees International, *Field Report: Humanitarian Needs Persist*, March 2010 ([www.refintl.org](http://www.refintl.org/)).

<sup>31</sup> Government of Iraq, Ministry of Planning, Iraq National Development Plan 2010–2014 (<http://iq.one.un.org/documents/83/NDP%20English.pdf>).

<sup>32</sup> Human Rights Watch (HRW) has long monitored IDP issues in Turkey and has long criticized the RVRP. For a survey of government return initiatives prior to 1996, see HRW/Helsinki, “Turkey’s Failed Policy to Aid the Forcibly Displaced in the Southeast,” *A Human Rights Watch report*, vol. 8, no. 9, June 1996. For an evaluation of the 1999 Return to Village and Rehabilitation Project, see HRW, “Displaced and Disregarded: Turkey’s Failing Village Return Program,” *A Human Rights Watch Report*, vol. 14, no. 7, October 2002. Citation from HRW, *Still Critical: Prospects in 2005 for Internally Displaced Kurds in Turkey*, 6 March 2005, p. 24 ([www.hrw.org](http://www.hrw.org)). On the central villages issue specifically, see the above-cited HRW October 2002 report as well as International Federation of Human Rights Leagues, *Human Rights in the Kurdish Southeast: Alarming Situation Despite Extensive Legal Reforms: Release of an International Investigative Mission Report*, July 2003 ([www.fidh.org](http://www.fidh.org)).

sought to improve on the RVRP. The document is technically a special Decision of Principle (Prensip Kararı) and therefore is not published in the *Official Gazette*. It contains a framework of principles to shape an action plan with NGO participation, as the Return to Village and Rehabilitation Project was criticized for not consulting NGOs.<sup>33</sup> The Ministry of the Interior instructed deputy governors to use the Integrated Strategy Document to inform all decisions made regarding the RVRP and the Law on Compensation, but the document does not detail how to address IDP issues. In a letter to the Permanent Mission of Turkey to the UN in March 2006, RSG Walter Kälin called for a plan of action to be developed.<sup>34</sup>

Drafted with technical assistance from the United Nations Development Programme and adopted by the Turkish government in 2006, the Van Province Action Plan for Responding to IDP Needs (hereafter, Van Action Plan) reflects the Guiding Principles on Internal Displacement. The Van Action Plan outlines the basic principles pertaining to assistance of IDPs during return, resettlement or reintegration.<sup>35</sup> It was developed in consultation with various sectors of civil society, including IDPs, and it is intended to be a pilot project or “blueprint” to be later implemented in the thirteen other provinces affected by internal displacement.<sup>36</sup> Begun in 2006, implementation of the Van Action Plan

is administered by the Van governorate, where IDP figures are some of the highest in the country. According to the government, the Van Action Plan included eighty-four proposed projects worth \$72 million by December 2007, over forty of which were still being negotiated in 2009.<sup>37</sup> Ultimately, a comprehensive national plan is to be developed once all thirteen other action plans are finalized. While progress on the thirteen provincial plans was made in 2009, there appeared to be no major developments in this direction as of mid-2011.

Like Turkey, Pakistan does not have a national policy on internal displacement; nonetheless, it does have a policy specific to IDPs for one of the main provinces affected by internal displacement. In Pakistan, at the provincial level, the government of the North-West Frontier Province (NWFP) signed with the United Nations a return policy framework document in July 2009.<sup>38</sup> This policy is in line with the Guiding Principles on Internal Displacement in that it stresses that returns will be voluntary, safe and conducted in dignity and recognizes that while return is preferred, local integration also is an option. Further, in this document the government committed itself to upholding international standards, to “provide respectful treatment of IDPs,” and to ensure that vulnerable IDPs are properly consulted through all stages. The policy also recognizes that the international community, with the support of the UN Office for the Coordination of Humanitarian Affairs, is responsible for assisting the NWFP government.<sup>39</sup>

<sup>33</sup> Dilek Kurban, Ayşe Betül Celik and Deniz Yüksek, *Overcoming a Legacy of Mistrust: Toward Reconciliation between the State and 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 Turkey* ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>34</sup> Walter Kälin, letter sent to the Permanent Mission of Turkey to the United Nations, 31 March 2006. On file with the authors.

<sup>35</sup> Deniz Yüksek and Dilek Kurban, *Permanent Solution to Internal Displacement? An Assessment of the Van Action Plan for IDPs*, Turkish Economic and Social Studies Foundation (TESEV), May 2009, p. 6, ([www.tesev.org.tr](http://www.tesev.org.tr)).

<sup>36</sup> Full text available at Brookings-Bern Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Turkey” ([www.brookings.edu/projects/idp/Laws-and-Policies/turkey.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/turkey.aspx)).

<sup>37</sup> Latest available data at the time of writing. Government of Turkey, Permanent Mission of Turkey to the United Nations, Geneva (GoT/UN Mission), 27 July 2007, “Information Note on Developments Regarding the Situation of Internal Displacement Provided to IDMC, cited in IDMC, *Turkey: Need for Continued Improvement in Response to Protracted Displacement: A Profile of the Internal Displacement Situation*, October 2009, p. 150 ([www.internal-displacement.org](http://www.internal-displacement.org)). For a discussion of the projects, see Yüksek and Kurban, *Permanent Solution to Internal Displacement? An Assessment of the Van Action Plan for IDPs*.

<sup>38</sup> The name of the province was officially changed in April 2010 to Khyber Pakhtunkhwa.

<sup>39</sup> Government of NWFP, Emergency Response Unit,



In 1999, the government of Sri Lanka initiated a process under the Relief, Rehabilitation, and Reconciliation Framework to “address the challenges of ensuring effective programming for the conflict-affected population.”<sup>40</sup> In June 2002, after an extensive consultative process with multiple stakeholders, including IDPs, the government adopted the National Framework for Relief, Rehabilitation and Reconciliation. This framework established a set of policies and strategies related to human rights, specific rights of the displaced, relief, and reconciliation/peace-building, to be followed up by relevant actors. Policy recommendations include adopting the Guiding Principles on Internal Displacement as official policy for assisting internally displaced persons affected by the conflict; conducting regular surveys and assessments with a view to accelerating and expanding opportunities for resettlement and reintegration; and establishing an independent humanitarian ombudsman system.<sup>41</sup> Since the adoption of the national framework, the government passed the Resettlement Authority Act (2007), which established the Resettlement Authority, charged with formulating a “national policy and to plan, implement, monitor, and co-ordinate the resettlement of the internally displaced and refugees.”<sup>42</sup> As of July 2011, there is no such national policy.<sup>43</sup>

Kenya’s draft National Policy for the Prevention of Internal Displacement and the Protection and Assistance to Internally Displaced Persons (2010) is fully consistent with the Guiding Principles; the International Conference on the Great Lakes Region Protocol on the Protection and Assistance to Internally Displaced Persons and Protocol on the Property Rights of Returning Persons; and the African Union Convention for the Protection and Assistance of Internally Persons in Africa. Kenya’s draft national policy criminalizes acts leading to arbitrary displacement and calls for measures guarding against factors conducive to internal displacement.

In Yemen, following a visit and recommendations in April 2010 from Representative of the UN Secretary-General on the Human Rights of IDPs Walter Kälin, the government reportedly began drafting a national IDP strategy.<sup>44</sup> However, at the time of writing, the policy only existed in preliminary draft form, still to be reviewed and adopted by the government—and the country was undergoing political upheaval.

In the Democratic Republic of the Congo, a draft strategy on return reportedly was drafted sometime within the past few years by the government with the assistance of Danish Refugee Council; however, no evidence of the strategy could be confirmed.<sup>45</sup>

In Myanmar, while there is no national policy or plan of action to address internal displacement, two strategy documents address post-Nargis displacement: the Action Plan on Disaster Risk Reduction 2009–2015 and the Post-Nargis Recovery and Preparedness Plan. The government, through a task force comprising representatives of the Ministry of Social Welfare, Relief and Resettlement and eleven other ministries together with representatives from the Myanmar Red Cross Society,

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Peshawar, *Return Policy Framework: Official Statement*, 11 July 2009 (<http://reliefweb.int/node/316752>).

<sup>40</sup> Brookings-Bern Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Sri Lanka,” ([www.brookings.edu/projects/idp/Laws-and-Policies/sri\\_lanka.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/sri_lanka.aspx)).

<sup>41</sup> Government of Sri Lanka, *National Framework for Relief, Rehabilitation, and Reconciliation*, June 2002, available at Brookings-Bern Project on Internal Displacement, “Sri Lanka: Laws and Policies.”

<sup>42</sup> “Resettlement” in the Sri Lanka context refers to return. Government of Sri Lanka, Parliament, *Resettlement Authority Act*, No. 9 of 2007, available at Brookings-Bern Project on Internal Displacement, “Sri Lanka: Laws and Policies.”

<sup>43</sup> Government of Sri Lanka, Ministry of Resettlement and Disaster Services, Resettlement Authority ([www.resettlementmin.gov.lk/resettlement-authority.html](http://www.resettlementmin.gov.lk/resettlement-authority.html)).

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<sup>44</sup> OHCHR, “Internally Displaced Persons in Yemen Threatened by Lack of Humanitarian Funding,” 12 April 2010 ([www.brookings.edu/projects/idp/~link.aspx?id=C664612845424E5788C489079C3B3E3D&z=z](http://www.brookings.edu/projects/idp/~link.aspx?id=C664612845424E5788C489079C3B3E3D&z=z)).

<sup>45</sup> According to correspondence with the Internal Displacement Monitoring Centre.

the UN Development Programme, the UN Office for the Coordination of Humanitarian Affairs, the Association of South East Asian Nations (ASEAN) and the Asian Disaster Preparedness Center and NGOs, developed the Myanmar Action Plan on Disaster Risk Reduction 2009–015 in 2009. While the plan does not discuss displacement, it aims to make Myanmar more disaster resilient, articulating projects to meet the commitments under the Hyogo Framework for Action and ASEAN Agreement on Disaster Management and Emergency Response. One of the core components of the action plan is community-based disaster risk reduction, which was identified as an immediate need in the Myanmar Action Plan on Disaster Risk Reduction 2009–2015 and is recognized in the plan as being key to any disaster management strategy: “Communities are not only first responders to disasters but also understand local hazards and resources and are in the best position to execute immediate rescue and relief actions.”<sup>46</sup> Among related initiatives are development of a community-based disaster risk-reduction policy in a process led by the Ministry of Social Welfare, Relief and Resettlement (MoSWRR) with an interministerial task force; developing a national program on community-based disaster risk reduction led by the MoSWRR; promoting community volunteerism and establishing “community-based disaster risk-reduction resource centers” in a process led by the Planning Department under the Ministry of National Planning and Economic Development with the Department of Social Welfare, the Department of Health, Fire Services, the Relief and Resettlement Department, Myanmar Red Crescent Society and local disaster preparedness committees. The other components of the action plan are policy, institutional arrangements and further institutional development; hazard, vulnerability and risk assessment; multi-hazard early warning systems; preparedness and response programs at national, state/division, district and township levels; mainstreaming of disaster risk reduction into

development work; and public awareness, education and training.

The Post-Nargis Recovery and Preparedness Plan includes strategies to address displacement caused by the cyclone, including through shelters and relocation settlements, livelihoods, and land tenure security, noting that “[t]hose who have been displaced following the cyclone need support and protection.” The plan notes that for the displaced who are unable to return, relocation settlements require careful planning and adequate investment in order “to minimize risks associated with their resettlement.” “Displaced persons” are recognized as a priority for the shelter and settlement sector: “activities [of the sector] include the identification of vulnerable groups (including displaced persons) and prioritization for shelter assistance (and durable solutions for the displaced).”

## Conclusion

Particularly since the Guiding Principles on Internal Displacement were published in 1998, there has been a proliferation of government policies on IDPs, including national policies. The analysis conducted for this benchmark has found that most of the fifteen governments surveyed have adopted policies or action plans to respond to the needs of IDPs. In some cases in which national policies have been lacking, regional/provincial policies or plans of action have been developed, as in Turkey and Afghanistan. Indeed, as the countries surveyed reveal, various models of policies can be adopted, including policies addressing a particular phase of displacement.

As evident in this analysis, even when a policy is adopted, often it is neither adequately disseminated nor implemented. Dissemination and awareness raising on IDP policies—especially to IDPs and to government officials, particularly those responsible for implementation—are, of course, essential elements in translating policies into practice. Political will, capacity and funding are also relevant to policy implementation. The

<sup>46</sup> Government of the Union of Myanmar, Ministry of Social Welfare, Relief and Resettlement Department *Myanmar Action Plan on Disaster Risk Reduction 2009–2015*, ([www.adpc.net](http://www.adpc.net)).

challenges in the implementation of policies on IDPs underscore the importance of monitoring and reporting mechanisms, such as national human rights institutions (NHRIs), civil society groups, UN agencies and international organizations; in addition to the provision

of technical assistance to governments to implement national laws, strategies and policies on IDPs, and legal assistance programs to ensure that IDPs are both aware of their rights and entitlements and able to have them fulfilled.



Yemen / UNHCR and the Yemeni Red Crescent demarcate a camp and erect tents in Khalwan, Amrran governorate, in Northern Yemen.

Photo: UNHCR/ L. Chedrawi / September 2009

## Benchmark 7

### Designate an Institutional Focal Point on IDPs”

#### ***Has the government designated a national institutional focal point for addressing internal displacement?***

For a government to meet its responsibilities in situations of internal displacement, it must have a clear sense of exactly which government actors are responsible for doing what. If it does not, it runs the risk, as the saying goes, that “if everyone is responsible, then no one is responsible” and little to nothing gets done. Designating a government focal point for addressing internal displacement is important not only for clarifying institutional responsibilities but also for increasing government accountability. The Framework for National Responsibility points out that having a national institutional focal point on internal displacement also can be essential to ensuring sustained national attention to the issue. International guidance on the development of law and policies relating to internal displacement considers designating an institutional focal point for IDP issues at the national level and, when appropriate, at the subnational level among the “minimum essential elements” of state regulation of internal displacement.<sup>1</sup>

Certainly, addressing internal displacement is a shared responsibility that almost certainly will require the collective efforts of a range of government offices and agencies. Government actors need first of all to be made aware of their responsibilities. Moreover, given that a number of different actors are sure to be involved in the response, someone needs to be in charge of coordinating their efforts. The national institutional focal point for IDP issues is not expected to assume and implement all

the responsibilities of the government regarding internal displacement; rather, as the term “focal point” suggests, this body should play a leading role, mobilizing and coordinating the efforts of all other relevant government actors. For example, in the development and implementation of national law, policies and strategies on internal displacement, the institutional focal point typically is expected to steer such efforts. It also should serve as the primary coordinating and implementing actor within government and as the main interlocutor on IDP issues with external stakeholders, including international actors, donors, civil society groups and IDPs.

As the Framework for National Responsibility sketches out, a number of different institutional options exist. The designated focal point on IDP issues may be an existing government agency, which then adds this function to its responsibilities; in countries where there is a ministry or department dealing with refugee issues, it is common for responsibility for IDPs to be added to its portfolio. Or a new government office, department, or even ministry may be created for this purpose. Another option, one which may supplement the work of a focal point institution, is to establish an interagency government committee or working group on IDPs.

Regardless of the form that the national institutional focal point takes, the Framework specifies that it should have several essential characteristics. Its mandate and responsibilities should encompass protection and assistance. Staff should be trained on IDP issues, in particular on the Guiding Principles on Internal Displacement and on how to operationalize the principles in practice (see Benchmark 4). The Framework also stresses that in order to carry out its mandate effectively, the institution must enjoy a certain political authority and be equipped with adequate resources (see also Benchmark 11). Close collaboration with NGOs is encouraged; indeed, it can be a means of reinforcing the capacity of the institution.

As a comprehensive national response to internal displacement requires the engagement of various ministries or offices of government—including justice, security, education and health and the electoral

<sup>1</sup> Brookings-Bern Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers* (October 2008), p. 263 ([www.brookings.edu/~media/Files/rc/papers/2008/1016\\_internal\\_displacement/10\\_internal\\_displacement\\_manual.pdf](http://www.brookings.edu/~media/Files/rc/papers/2008/1016_internal_displacement/10_internal_displacement_manual.pdf)).

management body, to name a few—the institutional focal point has an important role to play in coordinating the government response. Its role must not be limited to state-level institutions but should extend to all relevant levels of government authority, including regional or provincial and, especially, municipal authorities, which often are the first and main point of contact between IDPs and government. Intragovernment coordination is not always easy; municipal authorities often complain that bureaucrats in national capitals are removed from the day-to-day realities facing local governments and that financial support for action at the local level is inadequate.<sup>2</sup> If the institutional focal point is to be truly national, it is important that its relationship with all relevant government actors at all levels of government be strong, supportive and collaborative.

Less clear has been whether it is common, useful, or even essential for there to be a single national institutional focal point dealing with all forms of internal displacement in a country irrespective of the cause of displacement—conflict or other violence, natural disasters or—though this was not considered in this study—development-induced displacement.

## Overview of research findings

The case studies suggest that action in line with this benchmark is a concrete step that many governments are in fact ready to take. Of the fifteen countries reviewed for this study, all but two (Myanmar and Sri Lanka)

have designated a national institutional focal point for addressing internal displacement (see Figure 1-1). As to the implications of the lack of a government focal point, it is important to note that whereas in Myanmar there appears to be no institution with assigned responsibility for IDP issues and essentially no government engagement with respect to conflict-induced IDPs, in Sri Lanka a variety of ministries have been involved in addressing internal displacement for many years, but there is no single government institution with lead responsibility.<sup>3</sup> The lack of an institutional focal point does not necessarily connote the absence of government engagement with the IDP issue.

In any case, designating a focal point is just the first step; the institution also should meet the various criteria mentioned above. The discussion below compares the ways in which governments have established and supported these institutions in terms of timing of the designation; modalities of the decision; profile of the institution; responsibilities; coordination issues; capacity; and communication with IDPs.

### **Timing of designation of the focal point institution**

While a national institutional focal point on IDP issues exists in almost all of the case study countries, the case studies also show that the decision to establish the institution tends to be rather late in coming. In the vast majority of cases, the institution was named only several years after internal displacement first occurred (for example, in Afghanistan, Colombia, Democratic Republic of the Congo, Georgia, Iraq, Kenya, Nepal, Sri Lanka, Sudan, Turkey and Yemen). It also is important to note that the designated institutional focal point may change over time. Sri Lanka, for instance, has undergone numerous changes of focal point institution. However, this is not necessarily the case. In other cases of protracted displacement—namely in Georgia, Iraq, Sudan and Uganda—the duration of displacement does

<sup>2</sup> See, for example, Brookings-Bern Project on Internal Displacement, *Protecting the Displaced in Colombia: The Role of Municipal Authorities: A Summary Report* (July 2009) ([www.brookings.edu/reports/2009/07\\_colombia.aspx](http://www.brookings.edu/reports/2009/07_colombia.aspx)); *Workshop on the Implementation of Uganda's National Policy for Internally Displaced Persons*, Kampala, Uganda, 3–4 July 2006, hosted by the Government of Uganda and convened by the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, and the Brookings-Bern Project on Internal Displacement, in consultation with the IASC Country Team ([http://www.brookings.edu/fp/projects/idp/conferences/Uganda\\_Workshop2006\\_rpt.pdf](http://www.brookings.edu/fp/projects/idp/conferences/Uganda_Workshop2006_rpt.pdf))

<sup>3</sup> See further the Sri Lanka case study in chapter 2 of this volume.

not necessarily influence such changes; Georgia and Uganda have had the same national institutional focal point for IDPs since 1996 and 1998 respectively.

### ***Modality of the decision***

In most of the case studies, the institutional focal point for IDPs is designated as such by law. That may be done as part of a specific national law on IDPs (for example, as in Colombia and Georgia) or a national policy or strategy on IDPs (as in Iraq, Nepal, Sudan and Uganda as well as Kenya, which has a draft policy, and Yemen, which has a draft national IDP strategy). In fact, the appointment of a national focal point often seems to be propelled by an initiative to draft a law or policy on IDPs. In the absence of a specific national IDP law or policy, there may be a separate administrative directive designating a national body with lead responsibility for IDP issues (as in the Central African Republic). When a national institutional focal point for IDPs predates the adoption of a national law, policy or strategy on IDPs (in which case the focal point usually plays a central role in the drafting process), the law, policy or strategy on IDPs usually simply reaffirms its role or may provide an opportunity to revise its designation (as in Colombia and Yemen). In some cases, namely in Afghanistan, the Democratic Republic of the Congo, Pakistan and Turkey, it is not clear from the information available how and when the state institution playing the leading role in responding to internal displacement was formally designated as such.

### ***Institutional profile***

In the majority of cases, the institutional entity assigned responsibility for IDP issues is a state ministry or at least a government department headed by an official with ministerial rank. Usually, the designated entity is an existing ministry or government office rather than one created for this purpose. More specifically, lead responsibility for IDPs often is assigned to the ministry responsible for refugees and migration issues (as in Afghanistan, Georgia, Iraq and South Sudan) or to the ministry responsible for humanitarian and/or social affairs (as in the Central African Republic until June 2009, Colombia, the Democratic Republic of the Congo and

Sudan). In some cases, the government entity responsible for disaster management leads the national response to internal displacement, with responsibility for responding not only to displacement caused by disaster but also, notably, to conflict-induced displacement (as in Pakistan and Uganda). In other cases, it is the Ministry of Interior (in Turkey and Colombia from 1994 to 1997). In a few countries, an entirely new state office has been established to lead the national response on internal displacement, as in Yemen, where the Executive Office for IDPs replaced the Ministry of Health as the focal point institution (very little information on the new office is available, however). Responsibility for addressing the situation of IDPs sometimes becomes clear only after a conflict is officially over. In Nepal, responsibility is assigned to the Ministry for Peace and Post-Conflict Reconstruction; in Kenya, responsibility falls to the seemingly catch-all Ministry of State for Special Programs.

It is noteworthy that in some cases the designated focal point institution is linked formally to the executive office, most notably in Colombia, with the Presidential Adviser on IDPs; in Uganda, with the focal point institution being part of the Office of the Prime Minister; and in Yemen, with the Executive Office for IDPs. Such a link could be interpreted as a reflection of the national priority given to the IDP issue by the government (see Benchmark 2). At least, it presumably should translate into the focal point enjoying significant political leverage, though it is not clear from the evidence available whether that is in fact the case.

Changes in the designation of institutional focal point are perhaps inevitable over time. The case studies suggest that change can occur because of various factors, including the duration of displacement, changes in the magnitude of displacement, differences in the institutional competences required at different phases of displacement (for example, emergency assistance at the beginning and assistance with return or resettlement and reintegration later), capacity issues, funding, the degree of prominence given to the issue of displacement by the government, and broader initiatives of

**Figure 1-1. National institutional focal points on internal displacement**

<b>Afghanistan</b>	For conflict-induced IDPs: Ministry of Refugees and Repatriation (MoRR) For disaster-induced IDPs: Afghanistan Natural Disaster Management Authority (ANDMA)
<b>Central African Republic</b>	Comité National Permanent de Concertation et de Coordination pour la Gestion de la Protection Déplacées à l'Intérieur du Territoire de la République Centrafricain (June 2009–present) Previously: Ministère de la Famille, des Affaires Sociales et Solidarité Nationale (2006–2009)
<b>Colombia</b>	Agencia Presidencial para la Acción Social y la Cooperación Internacional (2005–present) (incorporating the RSS and SNAIPD and working with the Presidential Adviser on IDPs) <ul style="list-style-type: none"> <li>■ Red de Solidaridad Social (RSS) (1999-present)</li> <li>■ Sistema Nacional de Atención Integral a la Población Desplazada por la Violencia (SNAIPD) (1997-2005)</li> <li>■ Presidential Adviser for the Displaced (1994–present)</li> <li>■ Previously: Ministry of Interior (1994–97)</li> </ul>
<b>Democratic Republic of the Congo</b>	Ministère des Affaires Sociales, Action Humanitaire et Solidarité Nationale
<b>Georgia</b>	Ministry of Refugees and Accommodation (MRA)
<b>Iraq</b>	Countrywide: Ministry of Displacement and Migration (MoDM) Kurdish Regional Government: Directorate of Displacement and Migration (DDM)
<b>Kenya</b>	Ministry of State for Special Programs (MoSSP), Department of Mitigation and Resettlement
<b>Myanmar</b>	None
<b>Nepal</b>	Ministry of Peace and Reconstruction (MoPR)
<b>Pakistan</b>	National Disaster Management Authority (NDMA)
<b>Sri Lanka</b>	No focal point institution. However, the Presidential Task Force for Resettlement, Development and Security in the Northern Province is the current primary coordinating mechanism for government and international assistance to IDPs. Established in May 2009, the task force, which is chaired by Basil Rajapaksa, a member of Parliament and brother of the president, comprises some twenty ministerial and military officials.
<b>Sudan</b>	Countrywide: Humanitarian Aid Commission (HAC) South Sudan (prior to independence in July 2011): Southern Sudan Relief and Rehabilitation Commission (SSRRC)
<b>Turkey</b>	For conflict-induced displacement: Ministry of Interior For development-induced resettlement: General Directorate of State Hydraulic Works, General Directorate of Rural Services, and GAP Regional Development Administration
<b>Uganda</b>	Office of the Prime Minister, Department for Disaster Preparedness and Refugees (DDPR)
<b>Yemen</b>	Executive Unit for IDPs, headed by a minister Previously: Ministry of Health

government reform. In Colombia, for instance, since 1994 the institutional framework for addressing internal displacement has evolved considerably. There was no national institutional focal point on IDPs until the post of Presidential Adviser for the Displaced was created (a post, initially assigned to the Vice Minister of the Interior, that remains today), followed by the

designation in 1999 of the Red de Solidaridad Social (Social Solidarity Network) as the focal point agency. The Red de Solidaridad Social was later incorporated under the Agencia Presidencial para la Acción Social y la Cooperación Internacional (Presidential Agency for Social Action and International Cooperation), which is now the official designated focal point state entity.



### ***Institutional mandate and responsibilities***

When a national law, policy or strategy on IDPs has been adopted or at least drafted (see Benchmarks 5 and 6), it typically reconfirms the focal point designation or, when a focal point has not yet been designated, it clarifies the assignment of institutional responsibility for leading the national response to internal displacement (as in Colombia, Georgia, Kenya, Nepal, Turkey and Uganda). The Uganda National Policy for Internally Displaced Persons (2004) spells out the responsibilities of the national-level focal point institution as well as of central and local coordination mechanisms in considerable detail. Similarly, in Kenya the draft national IDP policy and in Yemen the draft national IDP strategy both devote considerable attention to defining the role and responsibilities of the focal point institution.

When there is a national institutional focal point for addressing internal displacement, in many cases the mandate of the body is concerned mostly with and in some cases explicitly restricted to IDPs due to conflict or violence (as in the Central African Republic, Colombia, Nepal, Sudan and Turkey).<sup>4</sup> Moreover, in some cases, the mandate for conflict-induced IDPs is limited to certain groups of such IDPs. For instance, in Kenya the mandate of the focal point ministry (Ministry of State for Special Programs) with respect to conflict-induced IDPs is restricted to IDPs resulting from the post-election violence of 2007, excluding IDPs resulting from other forms of conflict or violence.<sup>5</sup> In some of the cases studied, the lead government agency for IDPs has a mandate that covers displacement due to conflict as well as disasters (as in Georgia, Kenya and Uganda). In other cases, separate government agencies cover IDPs due to

conflict and IDPs due to disasters (as in Afghanistan) or IDPs due to conflict and IDPs due to development (as in Turkey). In one case, Yemen, the mandate of the previous national focal point for IDPs officially was restricted to camp-based conflict-induced IDPs, leaving aside the many IDPs who found temporary refuge with host families or in informal settlements. Reportedly that restriction was not strictly observed in practice and it has been lifted in the new draft national strategy on IDPs.

The tasks and functions assigned to the national institutional focal point for addressing internal displacement vary, both within each individual case as well as across the case studies. In a number of the countries reviewed, the mandate of the lead agency explicitly states that its responsibilities include protection and assistance (for example, the Central African Republic, Georgia, Iraq, Nepal and Uganda) and in some cases refers to “protection of rights” of IDPs (the Central African Republic and Georgia). Key functions and activities may include registration of IDPs (as in Colombia, Georgia, Nepal and Yemen); provision and coordination of humanitarian assistance (as in Afghanistan, the Central African Republic, Colombia, Georgia, Kenya and Sudan); the management of IDP camps and/or collective settlements (as in Georgia); coordination with other government institutions and with the international community; and the development of national legislation and policy on IDPs (as in the Central African Republic, Georgia, Kenya and Yemen). When a national policy on internal displacement does exist (see Benchmark 6), the designated national institutional focal point tends to be assigned responsibility for coordinating and monitoring implementation of the policy (as in Georgia, Nepal, Uganda and Yemen).

Beyond responsibilities relating to protection and assistance during displacement, in many cases the formal mandate of the institutional focal point refers explicitly to supporting “durable solutions” for IDPs (as in Kenya). This responsibility may refer to the broad range of possible solutions—that is, to return, local integration or resettlement elsewhere in the country—and to reintegration assistance (as in Iraq, Sri Lanka and Yemen). Or

<sup>4</sup> In Myanmar, the situation is the reverse: the only government agency for responding to internal displacement mentioned was the Ministry of Social Welfare, Relief and Resettlement (MoSWRR), which is responsible for disaster risk-reduction activities; it coordinated the relief efforts in response to Cyclone Nargis of 2008. Even so, it appears that the MoSWRR activities were not specifically focused on displaced persons but on relief and recovery of the affected population in general.

<sup>5</sup> See the Kenya case study in chapter 2 of this volume.

the focal point institution's mandated responsibilities may refer only to supporting a specific solution, usually return (as in Afghanistan, Colombia, Georgia, Nepal and Sudan). With regard to prevention, in a few cases, the mandate also refers specifically to giving the institutional focal point a role in and responsibility for preventing arbitrary displacement (as in Kenya, Uganda and Yemen).

### ***Coordination functions and mechanisms***

That many different government actors will need to be engaged in addressing internal displacement is evident given the nature and scope of the needs of IDPs, and challenges inevitably arise in coordinating efforts, avoiding duplication of efforts and closing gaps in service provision. The very act of designating a national institutional focal point for addressing internal displacement has been instrumental in several cases in clarifying often overlapping government responsibilities and catalyzing better organization of the national response to internal displacement. In Afghanistan, for example, UNHCR has observed that while a number of government organs "claim[ed] some jurisdiction" over IDP issues, it was only with the designation in 2008 of a single institutional focal point with lead responsibility for IDPs that the "institutional response is better organized."

In all of the cases in which a national institutional focal point exists, coordination among all relevant state institutions counts among its main functions. In some cases, the importance of coordination with regional, district and local levels of government also is emphasized. The Uganda national policy on IDPs sets out the role and responsibilities of regional and district coordination mechanisms in considerable detail. The Kenya draft national policy on IDPs specifies that among the primary functions of the focal point ministry is

coordination of implementation efforts with its branches and other relevant government stakeholders at the regional and local level, and other relevant ministries and government entities in accordance with their respective

ministerial responsibilities, the Kenya National Commission on Human Rights (KNCHR), IDPs, civil society and the international level.

Even in advance of the adoption of the policy, coordination has been a major aspect of the focal point institution's work; the policy simply recognizes that fact. In addressing internal displacement, the Ministry of State for Special Programs (MoSSP) works with a number of other ministries, including human rights, justice, security, foreign affairs, lands, education, environment, social protection and support, health, disaster management and relief, and reconciliation. For example, MoSSP works with the Ministry of Lands to identify and purchase land for the resettlement of IDPs and with the Ministry of Home Affairs to address child protection issues related to IDPs. Together with MoSSP, these two ministries are key players in the international coordination mechanisms (UN clusters) for addressing protection and humanitarian issues, including internal displacement.<sup>6</sup>

In several cases, coordination is supported and structurally provided for through the establishment of some sort of centralized IDP task force or committee that brings together the various relevant government actors and, in some cases, international and local stakeholders. In Colombia, a national system for ensuring that comprehensive attention is paid to IDPs was established in 1997 with the Sistema Nacional de Atención Integral a la Población Desplazada, which brings together twenty-seven different state ministries and agencies, backed by the institutional capacity of one of the members, the Red de Solidaridad Social.

In Sri Lanka, only after the end of active hostilities was such a body established, in May 2009, with the creation of the Presidential Task Force for Resettlement, Development and Security in the Northern Province (PTF). Comprising some twenty ministerial and military officials, the PTF is chaired by Basil Rajapaksa, the president's brother and a member of Parliament. According to the government of Sri Lanka, the responsibilities of

<sup>6</sup> See the Kenya case study in chapter 2 of this volume.

this body include preparing “strategic plans, programs and projects to resettle IDPs, rehabilitate and develop economic and social infrastructure of the Northern Province,” where most of the conflict was concentrated. Its main role is

to coordinate activities of the security agencies of the Government in support of resettlement, rehabilitation and development and to liaise with all organization in the public and private sectors and civil society organizations for the proper implement of programs and projects.

The PTF is involved in, and must approve, all humanitarian and reconstruction projects undertaken in the North. It is a temporary entity, and its mandate must be renewed every year.

Variations on this theme are found in several of the other cases. In Afghanistan, there is a national IDP task force co-chaired by Ministry of Refugees and Repatriation (MoRR) and UNHCR.<sup>7</sup> In the Central African Republic, a committee on IDPs is the focal body for addressing internal displacement, but as an amalgam of different institutional actors, the committee has little to no institutional capacity of its own. In Sudan, the High-level Committee on Internally Displaced Persons and Returns was formed in July 2007, but no information could be found pertaining to its activities. In Georgia,<sup>8</sup> the State Commission for Elaborating a State Strategy on IDPs was established in 2006 with the specific task, as its name indicates, of drafting and finalizing a state strategy for addressing the country’s crisis of protracted internal displacement; the strategy was adopted in 2007. Chaired by the focal point ministry, the Ministry of Refugees and Accommodation (MRA), the State Commission included among its members the Ministry of Justice; the Ministry of Labor, Health and Social Policy; the Ministry of Economic Development;

the Ministry for Territorial Reintegration; and representatives of the Abkhaz Government-in-Exile. In 2009, a steering committee on IDPs, also chaired by MRA, was established to oversee implementation of the state strategy and, in particular, of its action plan. Members of the steering committee include all relevant government ministries as well as the main international agencies, including UNHCR and the World Bank, and the main donors that have contributed funds for implementation of the action plan.

In other cases, IDP issues are to be addressed through national inter-ministerial coordination forum on humanitarian affairs (e.g. DRC) or on coordination on broader issues (Nepal, Uganda). These broader mechanisms are not necessarily chaired by the line ministry for IDPs, which may participate only as a member of the committee (as in Nepal and Uganda). In Uganda, there is the Inter-Ministerial Policy Committee on Internal Displacement, chaired by the Minister of the Department for Disaster Preparedness (DDPR) in the Office of the Prime Minister (the national focal institutional point for IDPs), and an Inter-Ministerial Technical Committee, chaired by the Permanent Secretary in the Office of the Prime Minister.

Irrespective of the committee’s scope and structure, in a number of cases, the established committees appear to be nonfunctional or at least not very active. There is little to no information easily available about their work, in particular in the cases of the Democratic Republic of the Congo, Nepal and Sudan. Alternatively, some have been very slow to begin meeting following their establishment (for example, the Central African Republic). Irrespective of the existence of such committees, coordination between the institutional focal point and other relevant government entities generally tends to be sub-optimal across the case studies.

Compounding coordination challenges among state organs is the fact that the state institutional focal point for addressing internal displacement often enjoys little political clout and leverage compared with other state entities, especially with regard to protection issues (as

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<sup>7</sup> See further the Afghanistan case study in chapter 2 of this volume.

<sup>8</sup> See further the Georgia case study in chapter 2 of this volume.

in Afghanistan and Georgia). Conversely, a number of focal point institutions have a direct link to the executive office (as in Colombia, Uganda and Yemen), which presumably should enhance their standing and political clout, though whether that is in fact the case or the link to the president is simply “window dressing” is difficult to establish based on the information available. A particular challenge arises regarding coordination with the military; in certain cases, most notably Pakistan, reports are that the national and provincial disaster management authorities “are dominated by the military,”<sup>9</sup> raising serious concerns about encroachment on not only international but national “humanitarian space.”

Moreover, it is noteworthy that in two of the cases (Democratic Republic of the Congo and Turkey), even when a state agency is designated to lead the response to internal displacement, advocates nonetheless have found the need to recommend “the establishment of clear government focal points on internal displacement” at the central and local levels. Presumably there has been either a lack of clarity or a lack of awareness among local stakeholders about the designation of the focal point and/or need for focal points to be designated within the other government entities with which the focal point ministry needs to coordinate.<sup>10</sup>

<sup>9</sup> IDMC, *Still at Risk: Internally Displaced Children’s Rights in North-West Pakistan*, 15 June 2010, p. 1 ([www.internal-displacement.org](http://www.internal-displacement.org)); Refugees International, *Pakistan: Protect People First*, October 2009 ([www.refintl.org](http://www.refintl.org)).

<sup>10</sup> UN Human Rights Council, *Report Submitted by the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to the Democratic Republic of Congo, A/HRC/8/6/Add.3*, 18 May 2008, p. 5, paras. 10–11 ([www.brookings.edu/projects/idp/rsg\\_info.aspx](http://www.brookings.edu/projects/idp/rsg_info.aspx)). On Turkey, see UNDP, “Working Visit by the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons to Turkey, 28 September–1 October 2006: Conclusions and Recommendations,” 2006 ([www.undp.org.tr/Gozlem2.aspx?WebSayfaNo=726](http://www.undp.org.tr/Gozlem2.aspx?WebSayfaNo=726)); and IDMC, *Turkey: Need for Continued Improvement in Response to Protracted Displacement: A Profile of the Internal Displacement Situation*, 26 October 2009, pp. 150, 153 ([www.internal-displacement.org](http://www.internal-displacement.org)).

Coordination between the state-level focal point for IDPs and local authorities is observed to be especially weak in almost all cases. This observation applies with respect to the regional suboffices or subcommittees of the state-level focal point (as in Georgia, Kenya and Uganda), although in Georgia a recent technical assistance project designed to strengthen institutional coordination in particular has in fact made headway.<sup>11</sup> Coordination gaps also arise and tend to be even greater with coordination between the institutional focal point (whether the national or regional and local offices) and local authorities such as provincial/regional governors or municipal authorities. Compounding coordination gaps are the capacity gaps experienced by these institutions.

As noted above, the national focal point institution for addressing internal displacement typically counts among its core functions coordination with relevant international actors. Moreover, where a national interministerial coordination committee on internal displacement exists, it also often serves as the forum for the government and international organizations as well as local groups engaged in responding to internal displacement (as in Afghanistan, the Central African Republic, Georgia and Uganda). Notwithstanding the existence of a mandate for coordination and of mechanisms for doing so, in practice insufficient coordination between the focal point institution and other government actors is a common problem that hinders not only the effectiveness of the focal point institution in fulfilling its mandate but also reduces the comprehensiveness of the overall national response.<sup>12</sup>

### ***Institutional capacity***

In many cases, the national institutional focal point has an office not only in the capital but also at the provincial/regional or district levels (as in Afghanistan, Colombia, Georgia, Iraq, Nepal, Pakistan, Uganda and, since mid-2010, Kenya). When that is not the case, the

<sup>11</sup> See the Georgia case study in chapter 2 of this volume.

<sup>12</sup> See, for example, the case studies on Georgia and Kenya in chapter 2 of this volume.

lead state agency may turn to other state-level ministries present in the field. For instance, in Kenya, until the ministry in charge of IDPs, the Ministry of State for Special Programs, established a number of regional offices, it was dependent on the Ministry for Provincial Administration to carry out resettlement program activities at the local level. Or the state-level institution may rely heavily on the provincial/regional administrations for implementation of its mandate at the local level (as in Pakistan and Yemen).

When regional or district offices of the state-level institution exist, they tend to suffer from significant gaps in capacity, both human and financial, to carry out their operational responsibilities. A common gap observed in many of the case study countries (for example, Georgia, Nepal and Uganda) was lack of adequate financial support from the central government to help local authorities discharge their responsibilities towards IDPs. There also exist significant knowledge gaps; for example, often local offices are not adequately informed or even aware of national laws, policies and programs for IDPs. In a number of cases, regional and district administrative authorities, rather than central government institutions, are the key actors in efforts to address internal displacement (as in Afghanistan, Central African Republic, Kenya and Yemen).

Indeed, a common observation across the case studies is that the institutional focal point suffers from lack of sufficient capacity to address the challenge of internal displacement in the country. Specific capacity gaps identified include insufficient staff; inadequate resources; knowledge, skills and attitudes gaps; and general institutional development issues that compromise the efficiency of the institution's work. For example, assessments of the Southern Sudan Relief and Rehabilitation Commission are that it "is extremely weak, has failed to develop key policies and lacks resources to implement projects."<sup>13</sup> In Georgia, following the new displacement

crisis of August 2008, long-standing criticisms of the state ministry responsible for IDPs as weak and ineffective were so sharp and widely held as to lead the government and many in the international humanitarian community to seriously consider reassigning this responsibility to other state organs (see the Georgia case study in chapter 2).

In addition to training activities (see Benchmark 4), in a number of cases (for example, Afghanistan, Georgia, Iraq and Turkey), UNHCR and other international actors, including the UN Development Programme, International Organization for Migration, Norwegian Refugee Council, Swiss Agency for Development Cooperation, and U.S. Agency for International Development (USAID), have supported capacity-strengthening programs specifically designed to address these gaps.

## Communication with IDPs and Other Stakeholders

IDPs should be able to petition the focal point ministry either directly or through human rights NGOs. That is in keeping with standard governance practices and, more specifically, with Guiding Principle 3, which affirms that IDPs have the right to request and to receive protection and assistance from the authorities and shall not be persecuted or punished for making such a request.

Additional, more deliberate, channels for communication and dialogue with IDPs about their views and concerns have been established by the focal point institution in some cases (see also Benchmark 9a). Georgia presents an especially interesting case. Several different channels of communication by IDPs to the ministry have been established—for instance, through the creation of an IDP telephone hotline to the ministry and the liberal dissemination by ministry staff, including the minister, deputy minister and chief of staff, of their cell phone numbers so that IDPs can bypass the hotline and reach them directly. As of mid-2009, following a recommendation by USAID for the ministry to develop a

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<sup>13</sup> Refugees International, *South Sudan: Urgent Action Needed to Avert Collapse*, Field Report, 26 March 2009, p. 2, ([www.refintl.org](http://www.refintl.org)).

better system for handling queries from IDPs, reception centers were established that IDPs can visit in order to obtain information and register their concerns through a case management system. In addition, regular “town-hall meetings” of the minister with IDP communities, visits by the minister to IDP collective centers, and regular participation by senior ministry officials in forums for dialogue with IDP representatives provide further access.<sup>14</sup> In Afghanistan, a national IDP committee (no longer in existence), with which ministry officials and even the president consulted, was established by the ministry together with UNHCR with a view to facilitating and enhancing dialogue, consultations and joint planning of the return process.

When a central or district coordinating committee exists for relevant government entities and other partners, in some cases representatives of civil society groups are included as members of the committee (as in the Central African Republic, Georgia, Nepal and Uganda). However, it is important to note that in several cases the selection of the participating civil society representatives is to be done by the government (as in the Central African Republic, Nepal and Uganda). For instance, in Uganda, the District Disaster Management Committee, which serves as “the lead agency for the protection and assistance of internally displacement persons” at the district level, includes two IDPS, one woman and one man, who are resident in the camps in the district; selection of the IDP representatives is determined by the committee.

## Conclusion

Designating an institutional focal point for IDPs should be a relatively straightforward task for governments. It appears that this is an easier step for a government to take than to draft a law on displacement, devise a mechanism for collecting data on IDPs or support durable solutions for IDPs. Moreover, once an institutional focal point has been named, the office can take on responsibility

for these and all other actions to protect and assist IDPs as outlined in the benchmarks. Thus, the designation of a national institutional focal point can be an important propeller of progress in other areas of national responsibility for addressing internal displacement.

The research indicates that all but two governments of the fifteen surveyed had designated a national institutional focal point. On one level, that suggests that this is, indeed, among the easier steps for governments to take (though typically, they do so only several years into a crisis). But scratch the surface a little, and the picture is less encouraging: these institutions tend to be “third-tier” bodies that are under-resourced and located within low-priority, low-prestige ministries or offices having limited political leverage, creating problems of leadership and coordination. Simply designating a focal point therefore is not necessarily a clear indication of a government’s commitment to addressing internal displacement; a clearer, more nuanced indication would be provided by a measure of the priority and support given to the focal point.

While our research seems to support the value of having a focal point at least in the initial stages of displacement, the question arises of whether having a national IDP focal point facilitates or frustrates efforts to integrate IDP issues into the broader government framework. This issue becomes more critical as displacement becomes protracted. After a decade of displacement, for example, it may be more important that the Ministry of Education has incorporated measures to ensure the access of IDP children to public schools than it is that a focal point has been charged with interministerial coordination.

Further, the experience in the case studies also shows that designating an institutional focal point is just the first step. Governments must also ensure that this body has access to all the required support—technical, financial, operational and political—to carry out its functions. Moreover, it is often, though not always, the case that separate institutional entities are given responsibility for internal displacement due to different causes, with

<sup>14</sup> See the Georgia case study in chapter 2 of this volume.

a division of functions being made between conflict-induced displacement, disaster-induced displacement and development-induced displacement. While the nature of the response will differ with the cause of displacement and the particular needs that it entails, the basic standards in terms of IDPs' rights are the same, underscoring the need of a degree of institutional consistency

and coordination. In general, capacity gaps and inadequate coordination—especially among different ministries and among different levels of government—tend to be significant and common challenges that must be addressed in order for the government's institutional framework to be fully effective in practice.



Uganda/ Children at a camp for internally displaced children in northern Uganda. More than three-quarters have gone home.  
Photo: UNHCR/ H.Coussidis / July 2009



## Benchmark 8

### Support NHRIs to Integrate Internal Displacement into Their Work

#### ***Is there a national human rights institution (NHRI) that gives attention to the issue of internal displacement?***

“Building strong human rights institutions at the country level,” UN Secretary-General Kofi Annan observed in 2002, “is what in the long run will ensure that human rights are protected and advanced in a sustained manner.”<sup>1</sup> Establishing and strengthening national human rights institutions (NHRIs) therefore are among the most important ways to improve the national protection response, including for internally displaced persons.

NHRIs are administrative bodies established and funded by governments, through legislative or executive action, that are intended to serve as independent mechanisms for advancing human rights in a country. Over the past thirty years, there have been efforts, often with the support of the UN Office of the High Commissioner for Human Rights (OHCHR), to establish and strengthen NHRIs around the world. At present, 110 countries have established NHRIs, which vary significantly by country; for example, their names differ—some are called commissions, others office of the ombudsman, still others office of the public defender.

Whatever they are called, NHRIs are expected to operate independently of the government. In reality, while some are completely independent of their governments, others are quasi-governmental institutions and still others are arms of the state. To be internationally accredited, NHRIs must meet the criteria for independence spelled out in the Principles Relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights (Paris Principles),

<sup>1</sup> United Nations, *Strengthening of the United Nations: An Agenda for Further Change*, A/57/387 (2002), para. 50 ([www.un.org/largerfreedom](http://www.un.org/largerfreedom)).

which were endorsed by the UN Commission on Human Rights in 1992 and by the General Assembly and Vienna World Conference in 1993.<sup>2</sup> NHRIs are individually ranked according to their compliance with the Paris Principles, with category A being the highest ranking. That NHRIs can play a valuable role in promoting and protecting the rights of IDPs has been recognized by various UN resolutions.<sup>3</sup>

The document, *Addressing Internal Displacement: A Framework for National Responsibility* identifies a number of ways for NHRIs to engage with internal displacement issues, including the following:

- monitoring IDP conditions to ensure that IDPs enjoy the same rights as others in the country, that they do not face discrimination in seeking to access their rights, and that they receive the protection and assistance they require
- conducting inquiries into reports of serious violations of IDPs’ human rights, including individual complaints by IDPs, and working to ensure an effective response by the authorities
- following up on early warnings of displacement and ensuring that authorities take necessary actions to prevent displacement
- advising the government on the development of national laws and policies to ensure protection of the rights of IDPs
- monitoring and reporting on the government’s implementation of national laws and policies regarding internal displacement.

<sup>2</sup> See Anna-Elina Pohjolainen, *The Evolution of National Human Rights Institutions: The Role of the United Nations*, Danish Institute for Human Rights, 2006 ([www.nhri.net/pdf/Evolution\\_of\\_NHRIs.pdf](http://www.nhri.net/pdf/Evolution_of_NHRIs.pdf)).

<sup>3</sup> See, for example, UN Commission on Human Rights, Resolution 2004/55 (20 April 2004), paras. 18 and 21; and UN Commission on Human Rights, Resolution 2003/51, 23 April 2003, paras. 18 and 21.

—undertaking educational activities and training programs, especially for government officials, including those in military and law enforcement agencies, on the rights of IDPs

—ensuring that IDPs are informed about and consulted in the development of government initiatives on their behalf

—establishing a monitoring presence in areas where IDPs' and other civilians' physical security is at grave risk and monitoring the return and resettlement of IDPs to ensure that it is voluntary and occurs in conditions of safety.<sup>4</sup>

By acknowledging that internal displacement is a human rights issue that falls within the mandate of national human rights institutions, governments can encourage (and financially support) the institutions' efforts to promote the human rights of the internally displaced.

In recent years, an increasing number of NHRIs around the world have begun to integrate attention to internal displacement into their work. To encourage and support such efforts, a number of capacity-strengthening programs have been implemented. For example, the Asia Pacific Forum of National Human Rights Institutions, together with the Brookings Project on Internal Displacement, undertook an assessment of the capacity to engage with IDPs of all of the NHRIs that were forum members and offered country-specific as well as forum-wide recommendations to enhance their efforts.<sup>5</sup>

<sup>4</sup> Brookings-Bern Project on Internal Displacement, *Addressing Internal Displacement: A Framework for National Responsibility*, April 2005, pp. 19–20 ([www.brookings.edu/projects/idp/20050401\\_nrframework.aspx](http://www.brookings.edu/projects/idp/20050401_nrframework.aspx)).

<sup>5</sup> For further information on the Asia Pacific Forum and the Brookings-Bern Project on Internal Displacement partnership, see the forum's website ([www.asiapacificforum.net/partners/project-partners/brookings-institute](http://www.asiapacificforum.net/partners/project-partners/brookings-institute)). See also Asia Pacific Forum–Brookings-Bern Project on Internal Displacement, *Regional Workshop on National Human Rights Institutions and Internally Displaced Persons, Colombo, Sri Lanka* (October 2005) ([www.brookings.edu/projects/idp/contents.aspx](http://www.brookings.edu/projects/idp/contents.aspx)).

Other regional networks of NHRIs, such as the African Network of National Human Rights Institutions, have considered ways of supporting each other to increase their activities on behalf of IDPs. The Internal Displacement Monitoring Centre (IDMC) has supported training on IDP issues for a number of NHRIs worldwide (see Benchmark 4).

## Overview of research findings

Figure 1-2 below provides an overview of the national human rights institutions in the fifteen countries included in this study. Six of the countries surveyed have an internationally accredited NHRI: Afghanistan, Colombia, Georgia, Kenya, Nepal and Uganda.<sup>6</sup> In South Sudan, a regional human rights commission was established in accordance with the Comprehensive Peace Agreement of 2005; presumably this institution will become an NHRI following the transformation of South Sudan into an independent country in July 2011. At least four countries (Myanmar, Pakistan, Turkey and Yemen) do not have an NHRI, while in four other countries (the Central African Republic, the Democratic Republic of the Congo, Iraq and Sudan) there were indications that an NHRI was to be established. However, from the information available, it appears that these bodies had not yet been established and become functional; at the very least, their status at the time of writing was unclear.

Although NHRIs generally have broad mandates to monitor, investigate and report on a range of human rights issues in their countries, several NHRIs have been very actively engaged, at least at different points in time, on internal displacement.

The case of Colombia provides an early example and indeed a potential model of the ways in which an NHRI

<sup>6</sup> Sri Lanka's NHRI was accredited in the past but has been downgraded, as noted further into the discussion.

can play an active and invaluable role in promoting and working to ensure protection by the authorities of the rights of IDPs. The national human rights institution in Colombia is the Ombudsman's Office (Defensoría del Pueblo), which, under the 1991 Constitution, is mandated to promote and defend the human rights of all Colombians. The office is financially and administratively autonomous from the government.<sup>7</sup>

For more than a decade now, IDP issues have been a high priority of the Ombudsman's Office. Already in 1999, when Francis Deng, Representative of the Secretary-General on the Human Rights of Internally Displaced Persons (RSG on IDPs), undertook a mission to Colombia, the office was very actively engaged on issues of internal displacement, having undertaken a wide range of activities including the following:

—raising public awareness of IDP issues through television and other public awareness campaigns

—monitoring and reporting on the rights of IDPs in terms of the Guiding Principles

—publishing, with the support of the UN High Commissioner for Refugees (UNHCR), a booklet reproducing the Guiding Principles (which had been introduced only in 1998) for broad dissemination to officials as well as to IDPs

—issuing early warnings of displacement—a critical function given that in Colombia at the time an estimated 50 percent of displacements were announced in advance of armed conflicts, forcing entire communities from their homes

—developing a nation-wide early-warning capacity with the support of the United Nations Development Programme (UNDP)

—reporting on the needs of specific groups of IDPs, such as children

—providing advice on the development of national laws and policies on internal displacement.<sup>8</sup> The Ombudsman's Office has regional offices throughout the country. That its staff were undertaking all these activities on behalf of IDPs (and human rights generally) in a climate of severe personal insecurity—several staff members had been targeted for attack and even killed—was all the more impressive but also tremendously disconcerting.<sup>9</sup>

Currently, the Ombudsman's Office maintains a focus in its specialized thematic program, Assistance to Displaced Persons.<sup>10</sup> The office investigates human rights violations, hears individual complaints, carries out public awareness campaigns, and issues early-warning reports.<sup>11</sup> Lack of security in certain areas as well as threats and attacks on ombudsman officials has hindered the office's ability to fully carry out its mandate.<sup>12</sup> Moreover, because the office is, as noted above, legally

<sup>7</sup> Government of Colombia, Constitución Política de Colombia 1991, Article 282.

<sup>8</sup> UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons Submitted in Accordance with Commission Resolution 1999/47—Addendum: Profiles in Displacement: Follow-Up Mission to Colombia*, E/CN.4/2000/83/Add.1, 11 January 2000, paras. 15, 23, 25, 32, 60, 64, 67, 72, 91, and 115 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)).

<sup>9</sup> *Ibid.*, paras. 68 and 77.

<sup>10</sup> Defensoría del Pueblo, "Atención a la población desplazada," ([www.defensoria.org.co/red/?\\_item=1105&secc=11&ts=2](http://www.defensoria.org.co/red/?_item=1105&secc=11&ts=2)).

<sup>11</sup> Defensoría del Pueblo, *Strategic Plan 2009–2012*, ([www.defensoria.org.co/red/pe/pe.swf](http://www.defensoria.org.co/red/pe/pe.swf)).

<sup>12</sup> UNHCR, "UNHCR Briefing," 22 May 2009 ([www.internal-displacement.org/8025708F004CE90B/\(httpD ocuments\)/6D6272F5830AC54AC12575E100325008/\\$file/UNHCR+briefing,+death+threats.pdf](http://www.internal-displacement.org/8025708F004CE90B/(httpD%20ocuments)/6D6272F5830AC54AC12575E100325008/$file/UNHCR+briefing,+death+threats.pdf)); Colombian Caravana UK Lawyers Group and Lawyers Without Borders, *Colombia: The Legal Profession Still Under Attack—Report of the Second International Lawyers' Delegation to Colombia*, 25 May 2011 ([www.colombiancaravana.org.uk/reports/Caravana2010FinalReportENGLISH.pdf](http://www.colombiancaravana.org.uk/reports/Caravana2010FinalReportENGLISH.pdf)).

required to be financially independent of the government—in general and in its critically important work on internal displacement—it has relied significantly on support from international donors, including OHCHR, UNDP and UNHCR.

In response to both international and domestic pressures, Sri Lanka established the Human Rights Commission of Sri Lanka (HRC)<sup>13</sup> under the Human Rights Commission Act No. 21 of 1996, and the commission became constitutionalized in the 17th Amendment. During its first few years of operation, the Human Rights Commission, which took over from the Human Rights Task Force, kept a low profile and “had only a marginal impact on the advancement of human rights in the country,” according to Mario Gomez, who worked actively to develop its IDP program while he was a member of the HRC. In 2001, the commission carried out a study on internal displacement in the country and began to consider how it might take steps in this area. The study found that IDPs were extremely vulnerable owing to their displacement and that “every single right spelled out in the Guiding Principles on Internal Displacement was not being fully complied with in Sri Lanka.” In addition, the study noted that one of the primary obstacles to the effective protection of IDPs was the fact that the government lacked a coherent IDP policy and legal framework. The study also examined the role of the network of regional offices of the HRC and found that lack of capacity and resources as well as threats to the personal security of regional coordinators impeded them from addressing the problems of IDPs. Further, while many NGOs were well connected to IDPs, the regional coordinators often failed to engage with these NGOs.<sup>14</sup>

In response to these findings, in June 2002, the HRC launched the National Protection and Durable Solutions for Internally Displaced Person’s Project (NPDS for IDPs project) to “protect and promote [the] rights [of] persons under threat of displacement, internally displaced, and returned.”<sup>15</sup> In addition to publishing advocacy materials and handbooks on the rights of IDPs, the NPDS for IDPs project investigated complaints, conducted protection monitoring visits; held training programs for military agencies, NGOs, community-based organizations, IDPs, host communities and government officials and worked with the Register General Department to issue documents to IDPs.<sup>16</sup> In 2006, the NPDS for IDPs project began drafting the Bill to Protect the Rights of the Internally Displaced Persons, which was submitted to the Minister of Disaster Management and Human Rights in August 2008.<sup>17</sup> However, at the time of writing the bill had not been introduced in Parliament and its status was unclear.

In particular in recent years, the HRC has been criticized for its lack of independence from the executive branch. In 2007, the international body that regulates national human rights institutions, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, downgraded the HRC to the status of “observer” because of its lack of independence and credibility.

The Uganda Human Rights Commission (UHRC) was established by law in 1997 as an independent body under Article 51 of the 1995 Constitution. The UHRC has a broad mandate to promote and protect human rights, including by monitoring and reporting on the government’s respect for human rights standards,

<sup>13</sup> For further discussion of the HRC, see the Sri Lanka case study in chapter 2 of this volume.

<sup>14</sup> Mario Gomez, “National Human Rights Commissions and Internally Displaced Persons Illustrated by the Sri Lankan Experience,” Occasional Paper, Brookings–SAIS Project on Internal Displacement, July 2002, pp. 15–17 ([www.brookings.edu/papers/2002/07/humanrights\\_gomez.aspx](http://www.brookings.edu/papers/2002/07/humanrights_gomez.aspx)).

<sup>15</sup> Human Rights Commission of Sri Lanka, NPDS for IDPs Project, “About Us” ([www.idpsrilanka.lk](http://www.idpsrilanka.lk)).

<sup>16</sup> Human Rights Commission of Sri Lanka, NPDS for IDPs Project, *Monthly Report*, November 2009 ([www.idpsrilanka.lk](http://www.idpsrilanka.lk)).

<sup>17</sup> Human Rights Commission of Sri Lanka, NPDS for IDPs Project, Protection of Internally Displaced Persons Bill ([www.idpsrilanka.lk/html/SpecialProgrammes/IDP-Bills.htm](http://www.idpsrilanka.lk/html/SpecialProgrammes/IDP-Bills.htm)).

investigating human rights violations, resolving complaints of human rights violations through mediations and tribunal hearings, providing human rights education, and engaging in research. At a conference on internal displacement in the Intergovernmental Authority on Development sub-region in 2003, it was noted that the UHRC had been visiting IDP camps in northern Uganda and reporting back to Parliament and other government officials on the conditions of IDPs. These visits “gave the IDPs a sense of hope that someone in the government was concerned with their plight” while the UHRC’s annual reports and recommendations to Parliament had served to generate national awareness and interest in addressing internal displacement.<sup>18</sup> That interest led to consideration of a draft national policy on internal displacement, which was adopted in 2004. The UHRC advocated for and provided input into the draft national policy, in particular by stressing that the policy should be based on IDPs’ rights and that the budgetary allocation for implementation of the policy should include funds to address IDP protection issues specifically. Overall, the UHRC’s activities “underlined that the state’s duty to protect and assist IDPs was not merely moral but legal and a matter of rights.”<sup>19</sup>

Over the years, the UHRC has continued to keep a strong focus on IDP issues, as evidenced in its annual reports and recommendations to Parliament, which for more than a decade have included a specific section on IDP issues. In recent years, the commission’s IDP work has concentrated in particular on the government’s Return, Resettlement and Reintegration Program (see Benchmark 10).<sup>20</sup> The commission conducts visits to IDP camps and return sites to monitor the progress of IDPs and the extent to which their rights are being respected. The findings are compiled in the UHRC’s annual reports to Parliament, with recommendations

for improved government action. In addition, the commission conducts outreach campaigns, training workshops and roundtable discussions on IDPs, targeting primarily security forces, local and district government officials, and IDPs.

While the UHRC plays an active role in promoting and working to safeguard the human rights of IDPs, it points out that inadequate funding and an inadequate number of field offices located near vulnerable populations hinder it from fulfilling its mandate.<sup>21</sup> UHRC has taken advantage of external support to strengthen its capacity to address such gaps. For example, the Internal Displacement Monitoring Centre held training workshops on IDP issues in 2009 and 2010 for the commission in northern Uganda. UNHCR, together with other partners in the Protection Cluster, have been providing capacity-strengthening support to the UHRC.<sup>22</sup>

In Georgia, the Office of the Public Defender, which was established by law in 1996,<sup>23</sup> has been recognized since October 2007 as an internationally accredited national human rights institution.<sup>24</sup> Its mandate is “to oversee observance of human rights and freedoms on the territory of Georgia and within its jurisdiction.”<sup>25</sup> The Office of the Public Defender has been monitoring and

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<sup>18</sup> Conference on Internal Displacement in the IGAD Sub-Region, *Report of the Experts Meeting, Khartoum, Sudan, 30 August–2 September 2003* (Brookings Institution–SAIS Project on Internal Displacement, the Intergovernmental Authority on Development, and OCHA, 2003), p. 17.

<sup>19</sup> *Ibid.*, pp. 16–17.

<sup>20</sup> See the annual reports of the UHRC ([www.uhrc.org](http://www.uhrc.org)).

<sup>21</sup> Uganda Human Rights Commission, *Annual Report 2008*, p. 22 ([www.uhrc.org/index.php?option=com\\_docman&Itemid=138](http://www.uhrc.org/index.php?option=com_docman&Itemid=138)).

<sup>22</sup> UNHCR, “2011 UNHCR Country Operations Profile: Uganda” ([www.unhcr.org](http://www.unhcr.org)). The cluster phase-out process has seen the handover of Protection Cluster leadership from UNHCR to the UHRC.

<sup>23</sup> Public Defender of Georgia, “Organic Law of Georgia on the Public Defender,” 16 May 1996 ([www.ombudsman.ge/index.php?page=777&lang=1&n=7](http://www.ombudsman.ge/index.php?page=777&lang=1&n=7)).

<sup>24</sup> For accreditation, see OHCHR, Chart of the Status of National Institutions Accredited By The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, Accreditation status as of August 2011 ([www.ohchr.org/Documents/Countries/NHRI/Chart\\_Status\\_NIs.pdf](http://www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf)).

<sup>25</sup> Public Defender of Georgia, “Organic Law of Georgia on the Public Defender,” 16 May 1996 ([www.ombudsman.ge/index.php?page=777&lang=1&n=7](http://www.ombudsman.ge/index.php?page=777&lang=1&n=7)).

reporting on IDP issues since at least 2004, as evidenced by its 2004 report to Parliament (the earliest such report available on the office's website), which included a chapter on IDPs and refugees.<sup>26</sup> Since then, the office has continued to report on IDP issues; in fact, it has intensified its efforts in recent years, including by submitting to Parliament in 2010 a special report devoted entirely to internal displacement.<sup>27</sup> Yet, as the public defender himself has pointed out, the office's efforts to monitor and report on internal displacement have been limited nonetheless by the number and diversity of IDPs and the limited capacity of the office.<sup>28</sup>

Strengthening the capacity of the Office of the Public Defender to address issues related to internal displacement was the specific aim of a 2010 project entitled Support to Public Defender's (Ombudsman's) Office in Solving the Problems Related to IDPs and Persons Affected by Conflict, which was funded by the Council of Europe's High Commissioner for Human Rights. Six new staff members were hired, including five monitors stationed in regional offices. Following training on the Guiding Principles and IDP issues provided by the Council of Europe together with UNHCR and other partners, the monitors began to conduct regular visits to IDP collective centers and other IDP settlements, undertaking a survey of 10 percent of IDP households in the collective settlements. They also began to provide on-site legal consultations and, in cooperation with the regional offices of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees (previously known as the Ministry of Refugees and Accommodation), to work to resolve specific problems and rights issues identified. The Office

of the Public Defender prepared a special report on the human rights of IDPs based on data provided by monitors from January to June 2010 and an analysis of existing national legislation, policies and programs, in which it made a number of recommendations for improving the national response.<sup>29</sup> In reports addressing IDP issues, the Public Defender typically makes reference to the Guiding Principles on Internal Displacement.<sup>30</sup>

The Office of the Public Defender also has become increasingly active, especially since the second half of 2010, in advocating for IDP rights. It has issued several public statements and press releases specifically on IDP issues, in particular concerning the process for privatizing and rehabilitating collective centers and related concerns about the eviction of IDPs.<sup>31</sup> The office's IDP project team also has undertaken a survey on the situation of IDPs in private accommodations, thereby helping to address an important gap in data collection.<sup>32</sup>

As of January 2011, the IDP project in the Office of the Public Defender was co-funded by the Council of Europe, together with UNHCR.<sup>33</sup> The IDP project team thus relies, at present, entirely on extra-budgetary funds

<sup>26</sup> Public Defender of Georgia, *Report on Conditions of Human Rights in Georgia in 2004*, pp. 66–73 ([www.ombudsman.ge/files/downloads/en/szounjmrncjpwcvdgasn.pdf](http://www.ombudsman.ge/files/downloads/en/szounjmrncjpwcvdgasn.pdf)).

<sup>27</sup> For a summary of how and the extent to which IDP issues have been addressed in the reports of the Public Defender's Office, see the Georgia case study in chapter 2 of this volume.

<sup>28</sup> Public Defender of Georgia, *The Situation of Human Rights and Freedoms in Georgia: Second Half of 2009*, p. 174 ([www.ombudsman.ge](http://www.ombudsman.ge)).

<sup>29</sup> Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia* (September 2010), pp. 5–7 ([www.ombudsman.ge/files/downloads/en/njyyccudreysvwtqszj.pdf](http://www.ombudsman.ge/files/downloads/en/njyyccudreysvwtqszj.pdf)).

<sup>30</sup> See, for example, See, for example, Public Defender of Georgia, *Human Rights in Georgia: Report of the Public Defender of Georgia: Second Half of 2006, 2007*, p. 149; Public Defender of Georgia, *Report of the Public Defender of Georgia: The Situation of Human Rights and Freedoms in Georgia: Second Half of 2009, 2010*, p. 177; both available at Public Defender of Georgia, "Reports," ([www.ombudsman.ge/index.php?page=21&lang=1](http://www.ombudsman.ge/index.php?page=21&lang=1)); and Public Defender of Georgia, *Report on the Human Rights Situation of Internally Displaced Persons and Conflict-Affected Individuals in Georgia*.

<sup>31</sup> See, for example, "Statement of Public Defender of Georgia Regarding Eviction of Internally Displaced Persons," 17 August 2010; and "Statement of the Public Defender," 21 January 2011 ([www.ombudsman.ge](http://www.ombudsman.ge)).

<sup>32</sup> See also the Georgia case study in chapter 2 of this volume.

<sup>33</sup> Ibid.

from donors rather than on funds in the office's regular annual budget.

The Kenya National Commission on Human Rights (KNCHR) was established in 2002 through the Kenya National Commission on Human Rights Act, which became operational in July 2003 when the president appointed nine commissioners.<sup>34</sup> KNCHR's mandate is to enhance the promotion and protection of human rights. The commission's activities are independent of government direction, although it draws its finances from the Treasury.<sup>35</sup>

The KNCHR focused on the human rights situation of IDPs before and after the 2007-2008 election violence. In 2009, the commission recognized IDPs as an important human rights concern and designated a focal point and staff dedicated to IDP issues. It established regional offices and a network of field monitors and is also working in concert with other organizations concerned with IDPs.<sup>36</sup> Its activities include monitoring the government's response to IDPs, investigating cases of human rights violations, advising government institutions, and promoting rights awareness among IDPs and government authorities.<sup>37</sup> It visits IDPs in camps and other settings as well as at return sites to monitor their progress and to determine whether their rights are being respected. In 2009, the KNCHR released a report showing that millions of shillings from the Humanitarian Fund meant for IDPs had been embezzled.<sup>38</sup> Following investigations

into the Kenya situation by the International Criminal Court in 2010, the KNCHR advocated for an effective witness protection program to protect witnesses, some of whom are IDPs.<sup>39</sup> KNCHR plays a large and important role in protecting and promoting the human rights of IDPs and holding the government accountable through its advocacy work.<sup>40</sup>

The KNCHR is obligated to submit an annual report to the National Assembly that includes an "overall assessment of the performance of the government in the field of human rights" and of KNCHR's achievements and challenges.<sup>41</sup> In its 2009–13 strategic plan, KNCHR reported that among its main challenges in carrying out its mandate is limited physical access across the country and adequate staffing.<sup>42</sup> From 2009, it began to boost its internal capacity to address internal displacement through engagement of permanent staff and a network of field monitors, and it moved away from ad hoc to sustained activities. IDP issues are now an established part of the work of the commission.<sup>43</sup> While its initial focus was on those displaced by the election violence of 2007, its broader response under the Economic, Social and Cultural Rights Programme is looking at all the causes of displacement as articulated in the draft national IDP policy.<sup>44</sup> The KNCHR was an important actor in the development of the government's draft IDP policy, and

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<sup>34</sup> KNHRC, "Public Accountability Statement for 2006–2008: Statement of Successes and Challenges" ([www.knchr.org/index.php?option=com\\_docman&Itemid=&task=doc\\_download&gid=21](http://www.knchr.org/index.php?option=com_docman&Itemid=&task=doc_download&gid=21)).

<sup>35</sup> See the case study on Kenya, in chapter 2 of this volume.

<sup>36</sup> Interview with a KNCHR commissioner, 26 January 2011.

<sup>37</sup> KNCHR, *Strategic Plan 2009–2013*, launched 28 January 2010 ([www.knchr.org/index.php?option=com\\_docman&Itemid=&task=doc\\_download&gid=41](http://www.knchr.org/index.php?option=com_docman&Itemid=&task=doc_download&gid=41)).

<sup>38</sup> KNCHR, "Outcome of KNCHR Assessment of GOK Resettlement Program of IDPs and Corruption Allegations," press release, *Daily Nation*, 2 December 2009; also see South Consulting, *December 2009 Status of Implementation Report*, p. 29 ([www.kenyadialogue.org](http://www.kenyadialogue.org)).

<sup>39</sup> Interview with a KNCHR commissioner, 26 January 2011.

<sup>40</sup> IDMC, *Kenya: No Durable Solutions for Internally Displaced Yet*, December 2008 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>41</sup> KNCHR produces two reports, the *Status of Human Rights Report* and an accountability report, the *Annual Report of the Commission*. Since its inception, the KNCHR has produced three status of human rights reports and submitted an annual report to the Minister for Justice, who is supposed to present it to the National Assembly for debate. No annual report has ever been discussed by the National Assembly. The KNCHR does not know why the reports have not been discussed, but it has continued to submit its reports. Interview with deputy secretary of the KNCHR, 21 January 2011.

<sup>42</sup> KNCHR, *Strategic Plan 2009–2013*.

<sup>43</sup> Interview with human rights officer, KNCHR, 26 January 2011.

<sup>44</sup> *Ibid.*

it co-chairs the National Protection Working Group, under whose auspices the policy was developed.

In Nepal, the National Human Rights Commission (NHRC) was established in 2000 as an independent and autonomous constitutional body.<sup>45</sup> According to the NHRC, “Since the Commission has significant responsibility to work for the guarantee of the rights of IDPs, the issues of the IDPs are taken with the highest priority.”<sup>46</sup> A specified person within the Protection and Monitoring Division is the IDP focal point, whose “objective [is] to pay attention towards the protection and promotion of human rights of IDPs.”<sup>47</sup>

The Comprehensive Peace Accord (CPA) mandates the NHRC to monitor the government’s adherence to its human rights commitments under the accord.<sup>48</sup> The commission investigates incidents of human rights violations,<sup>49</sup> monitors and reports on IDP conditions, coordinates with NGOs and INGOs, monitors the activity of government authorities working on IDP issues, reports on implementation of national laws and policies on IDP issues, and conducts public awareness campaigns. In 2008, NHRC published a pamphlet to educate the public on IDPs and the government’s response.<sup>50</sup> A national seminar on national IDP policy was organized by the NHRC in July 2008.<sup>51</sup>

<sup>45</sup> NHRC, “About Us” ([http://nhrcnepal.org/about\\_us.php](http://nhrcnepal.org/about_us.php)). The commission was established as a statutory body under the Human Rights Commission Act in 2000 and became a constitutional body under the Interim Constitution of Nepal 2007.

<sup>46</sup> NHRC, *Internally [sic] Displacement Information Booklet*, December 2008 ([www.nhrcnepal.org](http://www.nhrcnepal.org)).

<sup>47</sup> Ibid.

<sup>48</sup> Government of Nepal, Comprehensive Peace Accord, Article 9.4 (<http://mofa.gov.np>).

<sup>49</sup> See Benchmark 10.

<sup>50</sup> See National Human Rights Commission Nepal, *Internally Displacement Information Booklet*, December 2008 ([www.nhrcnepal.org/publication/doc/books/IDPs\\_Eng\\_Booklet.pdf](http://www.nhrcnepal.org/publication/doc/books/IDPs_Eng_Booklet.pdf)).

<sup>51</sup> The policy is called the National Policy on Internally Displaced Persons 2063 (2007). Suresh Pandit, *National Policy on Internally Displaced Person[s], 2063–Implementation for*

The United Nations has recognized and contributed to the important work of the NHRC. In 2004 the commission was the subject of two separate agreements on capacity development between the government of Nepal and United Nations Development Programme and the Office of the High Commissioner for Human Rights.<sup>52</sup> The government of Nepal also has publicly recognized the UN’s support for strengthening the NHRC as well as the commission’s work in protecting and promoting human rights in Nepal. Speaking in 2005, Ramesh Nath Pandey, the Minister for Foreign Affairs and leader of the Nepalese delegation to the UN, addressed the sixty-first session of the UN Commission on Human Rights in Geneva, stating:

Equally important is HMG’s [His Majesty’s Government’s] commitment to strengthen the independence of National Human Rights Commission, an independent statutory body, to carry out its mandated tasks of promoting and protecting human rights, including investigations and monitoring the cases of human rights violations. We are committed to ensuring its independence, impartiality and continuity. We firmly believe that the Commission plays a significant and constructive role in the protection and promotion of human rights of the people.<sup>53</sup>

The NHRC seems to have significant potential to carry out its IDP-related activities. The government allocates money and resources to the NHRC, but most funds and

*Rehabilitation, Resettlement and Reintegration [of] Internally Displaced Persons in Nepal: I/NGOs Perspective: Initiation, Present Situation and Way Forward*, NHRC, 31 July 2008 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>52</sup> OHCHR, “Statement by UN Resident Coordinator, Mr. Matthew Kahane, Human Rights Day, 10 December 2004,” ([www2.ohchr.org/english/events/day2004/nepal.htm](http://www2.ohchr.org/english/events/day2004/nepal.htm)).

<sup>53</sup> Government of Nepal, Ministry of Foreign Affairs, “Statement by Hon. Ramesh Nath Pandey, Minister for Foreign Affairs and Leader of the Nepalese Delegation at the Sixty-First Session of the UN Commission on Human Rights, Geneva, 15 March 2005” ([www.mofa.gov.np/news/metadata.php?ID=131&bread=Speeches/Statements](http://www.mofa.gov.np/news/metadata.php?ID=131&bread=Speeches/Statements)).



support come from international donors and agencies.<sup>54</sup> The capacity development project of NHRC, funded by the UNDP and bilateral partners, has been influential in increasing the commission's capacity through the provision of technical assistance, in-kind contributions and expert advisory services.<sup>55</sup> Walter Kälin, the RSG on IDPs, who met with several of the NHRC commissioners in Kathmandu as well as with the staff of the NHRC regional office in Biratnagar during his 2005 mission to the country, noted in his mission report that the NHRC "has considerable potential to provide a response to human rights concerns in the context of displacement, including through prevention of displacement, protection during displacement and monitoring of return or resettlement after displacement." However, he also drew attention to the fact that several human rights NGOs had "questioned the Commission's capacity in the present political context to fully implement its mandate," and he expressed his hope that the commission would be able to function as an independent human rights institution able to promote and protect the rights of IDPs.<sup>56</sup>

The Afghanistan Independent Human Rights Commission (AIHRC) monitors and reports on the situation of vulnerable groups, including IDPs, refugees and returnees.<sup>57</sup> In fact, IDPs constituted a significant segment of the population used in human rights field monitoring research for the commission's 2008–09 annual report on economic and social rights, which indicated that the majority of IDPs living in urban slums and informal settlements lacked adequate food, water, health care, and education.<sup>58</sup> The report also revealed

that the majority of IDPs were unable to return to their homes and communities due to insecurity, lack of housing, and disputes over land and property. In addition to monitoring and reporting on the situation of IDPs, the commission has engaged municipal authorities on behalf of IDPs in matters related to the issuance of national identity cards (*tazkera*), registration of displaced children in schools, access to water, and disputes over land and property. The AIHRC has also worked with the National Task Force on IDPs, but largely on an ad hoc basis and only on specific cases. The commission has stated that one of its main institutional challenges—as in the case in other national human rights institutions—has been the "lack of State funding towards AIHRC's overall budget [and that] this lack of sustainable funding and our ongoing dependency on donor contributions continues to undermine the future stability of the AIHRC."<sup>59</sup>

Among the other countries surveyed that have NHRIs, several seem to also have been active on IDP issues—at least at different points in time—but there is insufficient information on the effectiveness of their efforts or of any ongoing work with IDPs.

While Pakistan does not have a national human rights institution, an NGO called the Human Rights Commission of Pakistan (HRCP) reports that it draws attention to the issue of internal displacement through its fact-finding missions, monitoring of IDP returns, and statements and reports on IDP issues with recommendations to the government. The HRCP, an independent and nongovernmental body, has publicized the human rights violations of armed forces that have caused the death and displacement of civilians.<sup>60</sup>

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<sup>54</sup> NHRC, "About Us" ([http://nhrcnepal.org/about\\_us.php](http://nhrcnepal.org/about_us.php)).

<sup>55</sup> NHRC, "Capacity Development of the National Human Rights Commission of Nepal" ([www.nhrcnepal.org/project1.php?ProjNo=1](http://www.nhrcnepal.org/project1.php?ProjNo=1)).

<sup>56</sup> UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to Nepal*, E/CN.4/2006/71/Add.2, 7 January 2006, para. 29 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)).

<sup>57</sup> See further the Afghanistan case study in chapter 2 of this volume.

<sup>58</sup> Afghanistan Independent Human Rights Commission

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(AIHRC), *Report on the Situation of Economic and Society Rights in Afghanistan—IV* (2008/9), November–December 2009, p. 21 ([www.aihrc.org](http://www.aihrc.org)).

<sup>59</sup> AIHRC, *Strategic Action Plan 2010–2013*, March 2010 ([www.aihrc.org](http://www.aihrc.org)).

<sup>60</sup> "HRCP Stands" ([www.hrcp-web.org/showprel.asp](http://www.hrcp-web.org/showprel.asp)); Asma Jahangir, *A Tragedy of Errors and Cover-ups: The IDPs and Outcome of Military Actions in FATA and Malakand Division*, HRCP, June 2009 ([www.hrcp-web.org](http://www.hrcp-web.org)).

In five of the fifteen countries surveyed, there were seemingly no national human rights institutions: Myanmar, the Central African Republic, the Democratic Republic of the Congo, Sudan and South Sudan. There have been indications that the process of creating an NHRI had begun in each country except Myanmar; nonetheless, it appears from the information available that no such body has yet come into being despite years having passed in some cases since an announcement that an NHRI would be established.

Myanmar does not have an NHRI. Its human rights body was established in November 2007 but it does not meet the UN Paris Principles as the United Nations Country Team has noted.<sup>61</sup> The government explained in its 2010 national report submitted for the Universal Periodic Review process that “[t]he current Human Rights Body...is an initial body which is hoped to emerge eventually as the Human Rights Commission in accord with the Paris Principles,” but this seems unlikely to occur in the near future.<sup>62</sup> In Turkey, the government has made three attempts since 2004 to create a Turkish human rights council. However, the process has been criticized for violating the Paris Principles for its lack of transparency and lack of consultation with human rights and civil society organizations. A draft law on a national human rights organization prepared by the government was referred to Parliament on 28 January 2010.<sup>63</sup> In Yemen, the president has named a minister of

state for human rights,<sup>64</sup> but there is minimal information available regarding the ministry’s mandate and its activities.<sup>65</sup>

In 1991 the government of the Central African Republic established in law the National Human Rights Commission, whose mandate includes promoting human rights, advising the government on all matters and all draft legislation affecting human rights, and receiving individuals’ complaints of violations of their human rights.<sup>66</sup> In 2006, the government adopted a law reaffirming that law and slightly modifying the mandate of the NHRC to include promoting and protecting the rights of vulnerable groups.<sup>67</sup> In 2009, the government reported to the UN Human Rights Council that it was committed to setting up a national human rights commission by the end of 2010.<sup>68</sup> However, in 2011, now twenty years since the

org/default.asp).

<sup>61</sup> See UN Human Rights Council, Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1: Myanmar, A/HRC/WG.6/10/MMR/2, 15 November 2010, para. 10 ([www.ohchr.org/EN/HRBodies/UPR/PAGES/MMSession10.aspx](http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MMSession10.aspx)).

<sup>62</sup> UN Human Rights Council, *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Myanmar*, A/HRC/WG.6/10/MMR/1, 10 November 2010, para. 24 ([www.ohchr.org/EN/HRBodies/UPR/PAGES/MMSession10.aspx](http://www.ohchr.org/EN/HRBodies/UPR/PAGES/MMSession10.aspx)).

<sup>63</sup> Human Rights Joint Platform, “The Draft Law on the Establishment of Human Rights Council of Turkey Must

Be Withdrawn Immediately!” 21 May 2009 ([www.ihop.org.tr/english](http://www.ihop.org.tr/english)); Human Rights Joint Platform, “Joint Opinion on Law Draft on National Human Rights Organization,” 19 February 2010 ([www.ihop.org.tr/english](http://www.ihop.org.tr/english)).

<sup>64</sup> IRIN, “Yemen: New FGM/C Law Possible ‘within Four Years’—Minister,” 10 February 2010 (<http://irinnews.org/Report.aspx?ReportId=88058>).

<sup>65</sup> Yemen Ministry of Human Rights, “Annual Report on Human Rights 2004: Chapter 4—Government and Non-Government Organizations,” p. 20 ([www.mhryemen.org/reports/ch4\\_government\\_and\\_nongovernment\\_organizations.pdf](http://www.mhryemen.org/reports/ch4_government_and_nongovernment_organizations.pdf)).

<sup>66</sup> *Loi No. 91.0009 portant création d’une commission nationale des droits de l’homme*. The decision to establish the national commission was reconfirmed and its mandate further elaborated in 2006 by *Loi No. 96.003*. See Erin D. Mooney, *Examen du cadre législatif en République Centrafricaine relatif à la protection des personnes déplacées à l’intérieur de leur propre pays: Audit juridique*, pp. 26–27 (Washington, D.C.: Brookings-Bern Project on Internal Displacement, February 2011) ([www.brookings.edu/reports/2010/11\\_car\\_audit\\_juridique.aspx](http://www.brookings.edu/reports/2010/11_car_audit_juridique.aspx)).

<sup>67</sup> IDMC, *State of Neglect: Displaced Children in CAR*, November 2008 ([www.internationaldisplacement.org](http://www.internationaldisplacement.org)); UN Human Rights Council, *Preliminary Note by the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on His Mission to the Central African Republic*, 2 June 2008 (A/HRC/8/3/Add.5).

<sup>68</sup> UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Central African*

law providing for its establishment was passed, the commission still exists only on paper.<sup>69</sup> And while the High Commissioner for Human Rights and Good Governance has existed in the country since January 2004 and in fact serves as the national institutional focal point for IDPs (see Benchmark 7), it was established by and is directly linked to the Office of the President and is unable to operate free of political influence.<sup>70</sup>

In the Democratic Republic of the Congo, the Senate adopted a draft basic law in March 2008 on which a national human rights institution could be established, but the law was still pending before Parliament according to the latest information available at the time of writing.<sup>71</sup> Other institutional structures for human rights do not exist; the National Human Rights Monitoring Centre, which existed under the Transitional Constitution, was abolished and has not been replaced.<sup>72</sup>

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*Republic*, A/HRC/12/2, 4 June 2009, para. 77(a); OHCHR, “Impunity: A Major Challenge to Peace and Democracy in Central African Republic,” 19 February 2010 ([www.ohchr.org](http://www.ohchr.org)).

<sup>69</sup> Observation based on a fact-finding and technical assistance mission to CAR in June 2010.; see Erin Mooney, *Examen du cadre normatif de la République Centrafricaine relatif à la protection des personnes déplacées à l’intérieur de leur propre pays*, Brookings-Bern Project on Internal Displacement, November 2010, p. 27 ([www.brookings.edu/reports/2010/11\\_car\\_audit\\_juridique.aspx](http://www.brookings.edu/reports/2010/11_car_audit_juridique.aspx)).

<sup>70</sup> *Ibid.*

<sup>71</sup> ICG, *Congo: A Stalled Democratic Agenda*, Africa Briefing No. 73, 8 April 2010, p. 21 ([www.crisisgroup.org/en/regions/africa/central-africa/dr-congo/b073-congo-a-stalled-democratic-agenda.aspx](http://www.crisisgroup.org/en/regions/africa/central-africa/dr-congo/b073-congo-a-stalled-democratic-agenda.aspx)); UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Democratic Republic of the Congo*, A/HRC/13/8, 4 January 2010, para. 8 ([www.ohchr.org/EN/HRBodies/UPR/PAGES/ZRSession6.aspx](http://www.ohchr.org/EN/HRBodies/UPR/PAGES/ZRSession6.aspx)).

<sup>72</sup> UN Human Rights Council, *Combined Report of Seven Thematic Special Procedures on Technical Assistance to the Government of the Democratic Republic of the Congo and Urgent Examination of the Situation in the East of the Country*, A/HRC/10/59, 5 March 2009, p. 7 ([www2.ohchr.org/english/issues/idp/visits.htm](http://www2.ohchr.org/english/issues/idp/visits.htm)).

While the Constitution (2005) of Iraq mandates the establishment of an independent national human rights institution, as of July 2011 the NHRI was not yet operational.<sup>73</sup> From 2006 to 2008, OHCHR and the UN Assistance Mission for Iraq (UNAMI) worked closely with the Iraqi government to build consensus on the technical aspects of such an institution and assisted the Council of Representatives and the Ministry of Human Rights in preparing a draft law establishing an NHRI. In November 2008, the Council of Representatives adopted the Law on the Establishment of an Independent National Human Rights Commission. As OHCHR has stressed, the Independent Human Rights Commission will be the “essential institution for the promotion and protection of human rights in Iraq.”<sup>74</sup> Despite an announcement in 2009 that a human rights commission was to be established in the Kurdistan Region, as of July 2011, such a commission had not been established.<sup>75</sup>

The government of Sudan has been urged by the UN Human Rights Council to establish an independent NHRI.<sup>76</sup> In April 2009, the government did adopt the National Human Rights Commission Act, providing for the establishment of such a commission. However, in 2010 both the UN Committee on the Rights of the Child (CRC) and the Independent Expert on Human Rights in the Sudan expressed concern that this body had still not been established.<sup>77</sup> The CRC emphasized the impor-

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<sup>73</sup> Iraqi Constitution, 2005, Article 102 ([www.uniraq.org/documents/iraqi\\_constitution.pdf](http://www.uniraq.org/documents/iraqi_constitution.pdf)).

<sup>74</sup> “OHCHR in Iraq 2006–2007” ([www.ohchr.org/EN/Countries/MENARegion/Pages/IQSummary.aspx](http://www.ohchr.org/EN/Countries/MENARegion/Pages/IQSummary.aspx)); UN Assistance Mission for Iraq, *Human Rights Report, July-December 2008* ([www.uniraq.org/documents/UNAMI\\_Human\\_Rights\\_Report\\_July\\_December\\_2008\\_EN.pdf](http://www.uniraq.org/documents/UNAMI_Human_Rights_Report_July_December_2008_EN.pdf)).

<sup>75</sup> See Kurd Net, “Iraqi Kurdistan’s Human Rights Commission Still Not Established,” 18 July 2011 ([www.ekurd.net/mismas/articles/misc2011/7/state5271.htm](http://www.ekurd.net/mismas/articles/misc2011/7/state5271.htm)).

<sup>76</sup> United Nations, Human Rights Council Resolution 7/16 of 27 March 2008, para. 12; Resolution 15/27, 7 October 2010, para. 6.

<sup>77</sup> UN News Centre, “Sudan: UN Rights Expert Reports Positive Steps, but Lack of Progress in Key Areas,” 11 February 2010 ([www.un.org/apps/news/story.asp?NewsID=33743&Cr=sudan&Cr1](http://www.un.org/apps/news/story.asp?NewsID=33743&Cr=sudan&Cr1)); OHCHR, “Statement of the

**Figure 1-2. National human rights institutions (NHRIs) in the fifteen countries surveyed<sup>a</sup>**

Country and Status of NHRI*	Name of NHRI	Year established	Activities on behalf of IDPs
Afghanistan <sup>i</sup>	Afghanistan Independent Human Rights Commission (AIHRC)	2004	Through human rights field monitoring, looks at human rights and protection needs of the vulnerable, including IDPs; investigates complaints; monitors and reports on human rights abuses; advises the government; and provides training for government staff and civil society.
Central African Republic	National Human Rights Commission	Established by law in 1991 but not yet established in practice.	
Colombia <sup>i</sup>	Ombudsman's Office	1991	The IDP focal point within the Ombudsman's Office has taken an active role with respect to promotion and protection of IDP rights for more than a decade. Main activities include monitoring the rights of IDPs; early warning of displacement; public awareness campaigns on IDP issues; dissemination and advocacy of the Guiding Principles; receiving and working to address individual complaints by IDPs of violations of their rights; monitoring IDP children's rights; and advising on the drafting of national legislation and policies for addressing internal displacement.
Democratic Republic of the Congo		No evidence that the draft law establishing a national human rights commission has been adopted by the National Assembly.	
Georgia <sup>i</sup>	Office of the Public Defender	Established in 1996; recognized since 2007 as the internationally accredited national human rights institution for Georgia	The office has monitored and reported on IDP issues since at least 2004, but with difficulty because of limited capacity (there are 7 staff members, including six staff members hired in 2010 with funding from the Council of Europe).
Iraq	In development	Iraq's 2005 constitution mandates the establishment of an independent national human rights commission.	
Kenya <sup>i</sup>	Kenyan National Commission on Human Rights (KNCHR)	Established in 2002; became operational in 2003	Focused on human rights of IDPs before the 2007 constitutional crisis and has continued to do so since. In 2009 designated a focal point and staff dedicated to IDP issues; set up regional offices and a network of field monitors. Activities include monitoring; investigating cases of human rights violations; advising government institutions; promoting rights awareness; and conducting visits to IDP camps and return sites
Myanmar	No NHRI		.

*Continues*

Figure 1-2. Cont.

Country and Status of NHRI*	Name of NHRI	Year established	Activities on behalf of IDPs
Nepal <sup>i</sup>	National Human Rights Commission of Nepal (NHRC)	2000	Specified IDP focal point. The Comprehensive Peace Accord mandates the NHRC to monitor the government's adherence to its human rights commitments under the accord. Investigates violations; monitors and reports on IDP conditions; monitors government authorities; reports on laws and policies; conducts awareness-raising campaigns; High capacity.
Pakistan	No NHRI		
Sri Lanka <sup>ii</sup>	Human Rights Commission of Sri Lanka	1997	In June 2002, launched a unit on national protection and durable solutions for IDPs. Investigates complaints; conducts monitoring visits; conducts training programs for the military, NGOs/CBOs, IDPs and host communities; works with the Register General Department to issue documents to IDPs. Was very active in monitoring and reporting on displacement in the post-2004 tsunami period. In 2006 drafted a bill to protect the rights of IDPs. While IDP issues were one of its main priorities in the 2002–2006 period, attention has diminished. There is no evidence that it has done much work on these issues since 2009. Criticized for lack of independence. The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights downgraded the HRC to Grade B—the status of “observer”—in late 2007.
Sudan	Southern Sudan Human Rights Commission	The 2005 Interim Constitution of Southern Sudan provides for establishment of the commission.	
Turkey	No NHRI	Government has made three attempts since 2004 to create a human rights council; criticized for violating Paris Principles	
Uganda <sup>i</sup>	Uganda Human Rights Commission		IDP issues appear to be a high priority. Conducts visits to IDP camps and return sites to monitor returns; compiles annual reports; organizes training workshops.
Yemen		There is a Minister of State for Human Rights, but the office lacks accreditation from OHCHR.	

a. UN General Assembly, *The Role of the Ombudsman, Mediator and Other National Human Rights Institutions in the Promotion and Protection of Human Rights*, A/65/340, 1 September 2010, pp. 18–25 ([http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=18040](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=18040)).

\* Status refers to compliance with the Paris Principles, which is required for accreditation with the Office of the High Commissioner for Human Rights.

i. NHRIs that are in full compliance.

ii. NHRIs in partial compliance.

tance of having an independent national mechanism to monitor the implementation of human rights and urged the government to ensure establishment of a human rights commission that “is vested with the competence to receive and follow up complaints of violations of child rights and is provided with sufficient human and financial resources to ensure its independence and efficacy.”<sup>78</sup> There were no new developments at the time of writing.

The Interim Constitution of Southern Sudan (2005) provided for the establishment of the Southern Sudan Human Rights Commission (SSHRC) and the commission is just beginning to address the issue of internal displacement. But capacity is lacking.<sup>79</sup>

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Independent Expert on the Situation of Human Rights in the Sudan” ([www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9813&LangID=e](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9813&LangID=e)); UN Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Concluding Observations: Sudan*, CRC/C/OPAC/SDN/CO/1, 6 October 2010, para. 9 (hereafter, “UN Committee on the Rights of the Child: *Concluding Observations: Sudan*”, ([www.ohchr.org/EN/Countries/AfricaRegion/Pages/SDIndex.aspx](http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/SDIndex.aspx)).

<sup>78</sup> UN Committee on the Rights of the Child, *Concluding Observations: Sudan*, para. 10.

<sup>79</sup> The Interim Constitution of Southern Sudan, 2005, Chapter IV, Articles 149, 150. See also, Government of South Sudan, “Southern Sudan Human Rights Commission” ([www.goss-online.org/magnoliaPublic/en/Independent-Commissions-and-Chambers/Human-Rights-Commissions.html#structure](http://www.goss-online.org/magnoliaPublic/en/Independent-Commissions-and-Chambers/Human-Rights-Commissions.html#structure)). Also note that in

## Conclusion

As is evident from this description, in a number of countries national human rights institutions have played an important role in raising awareness of internal displacement, monitoring displacement situations and returns, investigating individual complaints, advocating for and advising the government on the drafting of national policies to address internal displacement, and monitoring and reporting on the implementation of national policies and legislation. In particular, the NHRIs of Afghanistan, Colombia, Georgia, Kenya, Nepal and Uganda stand out for their efforts to promote the rights of IDPs in their countries. Interestingly, almost all of their work with IDPs is funded by international sources, raising the question of whether national governments themselves should not be doing more to increase their funding of NHRIs in order to support their engagement with and invaluable contribution to improving national responses to internal displacement.

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November 2010, after the period covered by this survey, the Brookings-Bern Project on Internal Displacement commissioned a consultant to work with SSHRC to determine its interest in monitoring IDP issues. The assessment mission was carried out in conjunction with IDMC, which provided training on the Guiding Principles for staff of the commission. As a result of those initiatives, the SSHRC established an IDP focal point within the commission, mapped out a plan of work focusing on internal displacement and agreed to send a staff member to the Brookings-Bern Project’s course on IDP law in Sanremo, Italy, in June 2011.

## Benchmark 9

### Facilitate IDPs' Participation in Decisionmaking

#### **(a) Do the national authorities encourage and facilitate the participation of IDPs in the planning and implementation of policies and programs for addressing internal displacement?**

IDPs have the right to have a say in the decisions affecting their lives. As affirmed in the Guiding Principles on Internal Displacement, authorities in fact have a responsibility to facilitate the participation of IDPs in the planning and implementation of policies and programs concerning internal displacement. That responsibility pertains to all phases of displacement and to different elements during each phase.

Principle 3(1) affirms that IDPs have the right to request and to receive protection and humanitarian assistance from the national authorities and that they shall not be persecuted or punished for making such a request. Principle 7 specifies that outside of the emergency states of armed conflict or disaster, any decision requiring displacement must meet several guarantees in order to comply with international law, including that the displaced have access to full information on the reasons and procedures for their displacement and, when applicable, on compensation and relocation programs; that free and informed consent is sought of the persons to be displaced; and that the authorities endeavor to involve affected persons, particularly women, in the planning and management of their relocation. Principle 22 affirms that during displacement, regardless of the cause of displacement, no IDPs shall be discriminated against as a result of their displacement in the enjoyment of their rights, including the right to freedom of thought, conscience, belief, opinion and expression; the right to associate freely and to participate equally in community affairs; the right to vote and to participate in government and public affairs; and the right to communicate in a language that they understand. Principle 28(2)

affirms that authorities are expected to make “special efforts” to ensure the full participation of IDPs in the planning and management of their return or resettlement (including the option of local integration) and reintegration. Moreover, Principle 29 affirms that upon their return, resettlement or local integration, IDPs have the right to participate fully and equally in public affairs at all levels.

While the Guiding Principles emphasize that IDPs, like all persons, have the right to advocate for and participate in and thereby shape decisions affecting their lives, it is a right that is all too easy to affirm in laws, policies and public statements but that is seldom implemented in a meaningful way. In fact, establishing effective mechanisms to encourage and enable substantive participation of IDPs in decisionmaking is not easy as a previous study by the Brookings-Bern Project on Internal Displacement found.<sup>1</sup> For example, it can be difficult to identify genuine representatives of IDP communities, to ensure that women’s voices are heard, to manage expectations about consultation and participation, and to ensure that the safety of IDPs is not jeopardized by their participation in consultative mechanisms.

Moreover, the terms “consultation” and “participation” tend to be used interchangeably, yet there are important differences. Broadly defined, “consultation” is the process of soliciting and listening to people’s opinions and perceptions. “Participation” refers to deeper engagement that may imply a degree of control over decision-making and/or the contribution of labor, skills or material inputs. Consultation and participation are part of a process through which stakeholders influence and share control over initiatives and decisions that affect them.

<sup>1</sup> Brookings-Bern Project on Internal Displacement, *Moving beyond Rhetoric: Consultation and Participation with Populations Displaced by Conflict or Natural Disasters*, October 2008 ([www.brookings.edu/reports/2008/10\\_internal\\_displacement.aspx](http://www.brookings.edu/reports/2008/10_internal_displacement.aspx)); Brookings-Bern Project on Internal Displacement, *Consulting IDPs: Moving Beyond Rhetoric*, summary report of conference held 15–16 November 2007 in Geneva, February 2008 ([www.brookings.edu/papers/2008/02\\_displacement.aspx](http://www.brookings.edu/papers/2008/02_displacement.aspx)).



**Doha, Qatar / 28 May 2011: Talks were briefly held up on this day at the All Darfur Stakeholders Conference after representatives of internally displaced persons and civil society initially refused to participate. The refusal was brought on by delays in the arrival of a number of their delegations leaders.**

**The discussions later resumed and reviewed the delegates' positions on a number of key elements including justice and reconciliation, human rights, peaceful coexistence and power and wealth sharing.**

**The Doha negotiations led to the signing in July 2011 of the Doha Darfur Peace Document between the government of the Republic of the Sudan and the Liberation and Justice Movement.**

**Photo: UNAMID - Olivier Chassot**



The process of participation is generally understood to follow a spectrum of increasing levels of engagement (see Figure 1-3 below).<sup>2</sup> There are also the established

participation and consultation mechanisms provided by the political process, through exercise of the right to vote in elections and referenda.

<sup>2</sup> Brookings-Bern Project on Internal Displacement, *Moving Beyond Rhetoric: Consultation and Participation with Populations Displaced by Conflict or Natural Disasters*,

October 2008 ([www.brookings.edu/reports/2008/10\\_internal\\_displacement.aspx](http://www.brookings.edu/reports/2008/10_internal_displacement.aspx)).

**Figure 1-3: The participation spectrum<sup>3</sup>**

Participation Level	Modalities	Outcome
<b>Passive participation or information sharing</b>	For example, dissemination of documents and public briefings by officials.	Affected populations are informed but are not heard.
<b>Information transfer</b>	For example, field visits and interviews with the affected population.	Selected members of the affected population supply information in response to questions but do not make decisions or influence the process, at least not directly.
<b>Consultation</b>	For example, focus group discussions and interviews.	Selected members of the affected population are asked to offer their opinions, suggestions, and perspectives but are not involved in decisionmaking or implementation and do not influence the process, at least not directly.
<b>Collaboration</b>	Participatory needs assessment and project implementation (for example, IDPs supply labor for the construction of their new houses in an agency-led project).	Selected members of the affected population are directly involved in needs analysis and project implementation. They may also contribute, with labor and other skills, to implementation of projects led by other actors.
<b>Decisionmaking and control of resources</b>	For example, joint committees or working groups of authorities or agencies and representatives of the affected populations.	Selected members of the affected population are involved in project assessment, planning, evaluation and decisionmaking.
<b>Local initiative and control</b>	For example, a community-based organization (ideally an organization made up of members of the affected population itself) may organize vocational training classes that receive financial support from an agency.	Affected populations take the initiative; a project is conceived and run by the community, potentially with the support of agencies or the authorities.

<sup>3</sup> The Participation Spectrum was adapted from the following: P. Robson, *The Case of Angola*, Active Learning Network for Accountability and Performance in Humanitarian Action (ALNAP) (London: Overseas Development Institute, 2003); B. G. Sokpoh and K. Levy-Simancas, *The Case of Guinea*, ALNAP (London: Overseas Development Institute, 2004); Asian Development Bank, *Strengthening Participation for Development Results: A Staff Guide to Consultation and Participation*, (April 2006);

African Development Bank, *Handbook on Stakeholder Consultation and Participation in ADB Operations* (2001); Department for International Development (DFID), *Tools for Development: A Handbook for Those Engaged in Development Activity*, version 15.1 (March 2003); ALNAP, *Participation by Crisis-Affected Populations in Humanitarian Action: A Handbook for Practitioners* (London: Overseas Development Institute, 2003), p. 22.

In keeping with the Guiding Principles on Internal Displacement, the Framework on National Responsibility emphasizes that IDPs' participation should be encouraged and facilitated in all phases of displacement—for example, in making decisions about the relocation of communities, in establishing programs for humanitarian assistance and protection during displacement, and in making decisions about durable solutions to displacement. The following analysis considers two categories of IDP participation: first, participation in a general sense, including in policymaking and decisionmaking in program design and implementation; and second, political participation, in particular, the right to vote.

## Overview of research findings

### **Overview of research findings: (a) Participation in a broad sense**

The country studies illustrate that in quite a few cases, the importance of the participation of IDPs has been affirmed in public statements or policies. In some cases, participation is prescribed in law; in others the responsibility to facilitate consultation with IDPs forms part of the official mandate of the focal point institution. Evidence of whether government statements are simply aspirational affirmations or concrete commitments will be found in practice. In fact, a number of examples from the case studies show that IDPs have participated in particular discussions, for instance by providing input to the preparation of a national law or policy on internal displacement. However, it is very difficult, especially in the desk studies, to determine whether such cases have amounted to meaningful participation. Was it a one-off meeting or a regular consultation? Were IDPs' views welcomed and their questions and concerns addressed? Was there meaningful dialogue between the IDPs and the authorities or was IDPs' presence in such discussions seemingly just "for show"? Perhaps more than with other benchmarks, it is difficult to tell without talking with IDPs whether Benchmark 9 is being met.

Colombia, Georgia and Kenya seem to be the three cases in which significant attempts have been made to include IDPs in policy discussions, although even then, participation has not been entirely satisfactory.

In Colombia, Law 387 of 1997 establishes the right of IDPs to participate in the national program for addressing internal displacement, the Sistema Nacional de Atención Integral a la Población Desplazada por la Violencia (SNAIPD). There in fact have been some consultations by government authorities with IDP associations on the SNAIPD, although it is hard to determine whether the consultations were regular, much less whether they have had an impact on policy. Tellingly, the Constitutional Court has ruled on more than one occasion that government efforts to facilitate the participation of IDPs have been inadequate. In 2004, the court called for "spaces where such participation can be made concrete" and set basic conditions allowing for participation, including adequate, understandable, accessible and timely information and the systematization and evaluation of the observations made by the displaced population.<sup>4</sup> The following year, civil society groups engaged in IDP advocacy met, reportedly "on a basis of equality" with Cabinet ministers tasked with submitting reports on progress in complying with the court's various demands regarding the government's response to internal displacement.<sup>5</sup> However, in 2009, the Constitutional Court reported that IDPs' right to participate was still far from being realized, noting that "the day-to-day participation by IDPs both in decision-making processes and as a passive source of information is extremely low."<sup>6</sup>

<sup>4</sup> Internal Displacement Monitoring Centre (IDMC), *Colombia: New Displacement Continues, Response Still Ineffective: A Profile of the Internal Displacement Situation*, 3 July 2009 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>5</sup> Manuel Jose Cepeda-Espinosa, "How Far May Colombia's Constitutional Court Go to Protect the Rights of IDPs?" *Forced Migration Review*, Special Issue: Ten Years of the Guiding Principles on Internal Displacement, December 2008, p. 24.

<sup>6</sup> See Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado, *El Reto Ante La Tragedia*

Georgia represents an especially interesting case because there have been attempts to incorporate IDP participation into policy, and, as in Colombia, there are strong IDP associations.<sup>7</sup> For example, representatives of IDP associations were guaranteed 25 percent of the membership of the technical committees that provided analysis and recommendations for development of the State Strategy on Internally Displaced Persons (government officials made up half of the membership of each committee, while international agencies and NGOs made up the remaining quarter). Further, the resulting state strategy calls for the greater involvement of IDPs in decisionmaking. IDP associations also have been actively involved in developing the action plans for implementation of the strategy and are represented in the steering committee charged with monitoring the implementation of the strategy and action plan. While there are several well-established IDP NGOs that play an active role, for instance in advocating for and providing input in national law and policy development, that does not mean that all IDPs can be said to be participating. A distinction must be drawn between the active engagement of established IDP NGOs and meaningful participation by the IDP community at large, whose members generally are unfamiliar with the state strategy and related policy documents.

In Kenya, consultation mechanisms were established at least for IDPs displaced by post-election violence, and IDPs had input into preparation of the draft policy on internal displacement.<sup>8</sup> During the emergency phase, IDPs were represented in all UN clusters in which op-

erational decisions were made. There were opportunities for participation through the National Protection Working Group and the Kenya National Network of IDPs. The Kenyan Human Rights Commission has facilitated some meetings, and the Kenyan government hosted a consultation with 100 IDPs in March 2010. However, decisions on IDP policy are ultimately made by a Cabinet subcommittee, and IDPs complain that their participation is for the most part token participation. But there are potential future avenues for the active participation and consultation of IDPs, including the most disadvantaged, as reflected in the draft National Policy on the Prevention of Internal Displacement and the Protection and Assistance to Internally Displaced Persons in Kenya (March 2010). The draft policy recognizes that participation and consultation “in all processes in matters affecting them [IDPs] contributes to a more effective response to their needs, reduces their dependency and facilitates reintegration”; therefore it envisages the establishment of a permanent forum for dialogue with IDPs—with separate mechanisms for consulting with women, children and others with special needs—in concert with national and international stakeholders.<sup>9</sup> The government’s first stakeholders’ meeting to discuss the draft national IDP policy had over 100 participants, including representatives from the IDP community from all affected districts, as well as NGOs, international organizations and the United Nations.<sup>10</sup> At the meeting, the Minister of State for Special Programs expressed the government’s hope that the policy “espouses the virtues of inclusiveness, consultation and participation.”<sup>11</sup>

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*Humanitaria del Desplazamiento Forzado: Aplicar Políticas Públicas Idóneas y Eficientes*, vol. 4, April 2009, available: CODHES, “Comisión de seguimiento a la política pública sobre desplazamiento forzado,” ([www.codhes.org/index.php?option=com\\_content&task=view&id=39&Itemid=52](http://www.codhes.org/index.php?option=com_content&task=view&id=39&Itemid=52)).

<sup>7</sup> For a more detailed analysis of Benchmark 9 in the context of Georgia, see the Georgia case study in chapter 2 of this volume.

<sup>8</sup> For a more detailed analysis of Benchmark 9 in the context of Kenya, see the Kenya case study in chapter 2 of this volume.

<sup>9</sup> Government of Kenya, Ministry of State for Special Programs, *National Policy on the Prevention of Internal Displacement and the Protection and Assistance to Internally Displaced Persons in Kenya, Final Consolidated Draft, March 2010*, Chapter 1, Article 1.2.; on file with the authors.

<sup>10</sup> Office for the Coordination of Humanitarian Affairs (OCHA), *Kenya Humanitarian Update*, vol. 59, 9 March–7 May 2010 (<http://ochaonline.un.org/OchaLinkClick.aspx?link=ocha&docId=1164181>).

<sup>11</sup> Government of Kenya, Ministry of State for Special Programs, “Speech of Minister of State for Special Programs at the Workshop on the National Internally

There have been policy statements in other countries about the importance of IDP participation, but little information exists on whether the statements have translated into meaningful participation or simply pay “lip service” to the principle of participation. In countries where a national policy on internal displacement has been adopted, it is noteworthy that most of the national policies do include provisions regarding IDP participation. Uganda presents an especially interesting case because the National Policy on Internal Displacement (2004) includes extensive provisions promoting and guaranteeing the participation of IDPs in its implementation. In each district, the District Disaster Management Committee (DDMC), which is the lead mechanism for protection of and assistance to IDPs, includes in its membership two IDPs, one man and one woman, who reside in one of the IDP camps in the district and who “shall represent all IDPs of the district in the DDMC”; the same is true for the Disaster Management Committee. Additional measures are planned to facilitate the participation of women and youth: “In order to ensure the full participation of IDPs, in particular that of women, in the planning and management of responses to their protection and assistance needs, representatives of displaced women shall be consulted and may be invited to participate in the meetings of the DDMC.” The chief administrative officer of the district also is to “ensure that special measures are made to ensure that internally displaced women and youth are consulted on matters relating to their welfare.” The National Policy on Internal Displacement places special emphasis on consultation with and participation of IDPs in the search for durable solutions. DDMCs are obliged to include IDP representatives in the planning and management of return and resettlement, and representatives of IDPs, along with the DDMCs and other local authorities, are to ensure that the return and resettlement of IDPs is voluntary. Further, IDPs are to be consulted on the design of the resettlement assistance kits, in particular concerning “the most appropriate

inputs to meet their food security needs under prevailing conditions.”<sup>12</sup>

Implementation of these provisions and of the national policy overall is another matter. In 2006, two years after its adoption, the policy was still little known among IDPs as well as local officials and camp commanders.<sup>13</sup> Moreover, a review workshop emphasized the need for “greater involvement and more extensive consultation of stakeholders in planning humanitarian interventions and activities.” Particular importance was placed on consulting with and providing information to IDPs regarding issues of voluntary return, resettlement and reintegration. Overall, the workshop recommended that “IDPs and their communities . . . be integrated more fully into the implementation of the IDP policy.”<sup>14</sup>

The experience in Uganda is by no means unique. In Nepal, consultation with IDPs is called for in the National Policy on Internally Displaced Persons (2007),<sup>15</sup> but there is no evidence that this provision has been implemented; the majority of IDPs surveyed by the Nepal IDP Working Group did not even know

Displaced Persons Policy,” 17 March 2010 ([www.sprogrammes.go.ke/index.php?option=com\\_content&task=view&id=321&Itemid=117](http://www.sprogrammes.go.ke/index.php?option=com_content&task=view&id=321&Itemid=117)).

<sup>12</sup> Government of Uganda, “National Policy on Internally Displaced Persons (2004),” sections 2.4, 2.5.1, 3.4(4)-(5), and 3.14(1).

<sup>13</sup> Refugee Law Project and Internal Displacement Monitoring Centre, *Only Peace Can Restore the Confidence of the Displaced*, March 2006 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>14</sup> “Workshop on the Implementation of Uganda’s National Policy for Internally Displaced Persons,” Kampala, Uganda, 3–4 July 2006, hosted by the government of Uganda and convened by the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons (RSG on IDPs), the Brookings Institution-University of Bern Project on Internal Displacement, and the Inter-Agency Standing Committee Country Team, pp. 4, 13–14, 20 ([www.brookings.edu/fp/projects/idp/conferences/Uganda\\_Workshop2006\\_rpt.pdf](http://www.brookings.edu/fp/projects/idp/conferences/Uganda_Workshop2006_rpt.pdf)).

<sup>15</sup> Government of Nepal, Ministry of Home Affairs, National Policy on Internally Displaced Persons (IDPs) 2063 [2007]. Full text available at: Brookings-LSE Project on Internal Displacement, “National Laws and Policies on Internal Displacement: Nepal,” ([www.brookings.edu/projects/idp/Laws-and-Policies/idp\\_policies\\_index.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/idp_policies_index.aspx)).

about the national policy.<sup>16</sup> Sudan's National Policy on Internally Displaced Persons (2009) includes a provision on recognition of the right of IDPs to equal participation in public affairs; however, it is unclear whether there has been more than token IDP participation.<sup>17</sup> The record also has been mixed in Turkey. The Van Action Plan, adopted in 2006, provides for the involvement of IDPs and emphasizes the importance of a participatory approach. However, implementation of the action plan has been criticized for its lack of transparency, exclusion of IDPs from the consultation process, exclusion of the views of some organizations from the final action plan, and the "involvement of government-oriented organizations in the workshops under the guise of 'civil society.'"<sup>18</sup> According to Iraq's National Policy on Displacement (2008), consultations with key stakeholders contributed to development of the policy; however, specifics are not available.

Beyond the context of national policies on internal displacement, there have been occasional efforts to consult with IDPs on specific programs or policies, but it is hard to determine whether the efforts involved genuine involved participation. For example, efforts were made to involve IDPs in Uganda in drafting the Peace, Recovery and Development Plan for Northern Uganda in 2005.

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<sup>16</sup> According to the Nepal IDP Working Group, while 61 percent of surveyed IDPs and returnees knew of the existence of return and rehabilitation packages, only 35 percent were aware of the policy and none could identify the rights and entitlements specified (Nepal IDP Working Group, 15 June 2009, p. 34).

<sup>17</sup> National Policy on Internally Displaced Persons (2009), Section 5(a)20.

<sup>18</sup> According to Turkish Economic and Social Studies Foundation, which relayed the concerns of civil society organizations to the Van Governorship and the UNDP; see Deniz Yüksek and Dilek Kurban, *Permanent Solution to Internal Displacement? An Assessment of the Van Action Plan for IDPs*, Turkish Economic and Social Studies Foundation, May 2009, pp. 16–18 ([www.tesev.org.tr/UD\\_OBJS/PDF/DEMP/TESEV\\_VanActionPlanReport.pdf](http://www.tesev.org.tr/UD_OBJS/PDF/DEMP/TESEV_VanActionPlanReport.pdf)).

In Pakistan, meanwhile, there is no evidence that the national authorities encourage participation of IDPs. However, at the provincial level, the government of North-West Frontier Province (NWFP) developed the Return Policy Framework with the UN Office for the Coordination of Humanitarian Affairs in 2009. In this return policy, the provincial government commits to ensuring that vulnerable IDPs are properly consulted through all stages of the national response to displacement.<sup>19</sup> But again, there is no evidence that such consultations have taken place. In the Democratic Republic of the Congo (DRC), research did not reveal any evidence that national authorities encourage and facilitate the participation of IDPs in the planning and implementation of policies and programs addressing their displacement even though the government has signed protocols, such as the Dar-el-Salaam Declaration on Peace, Security, and Democracy and Development in the Great Lakes Region (2004) to protect vulnerable groups, including displaced persons, and to include them in peace efforts.<sup>20</sup>

As the Framework for National Responsibility points out, ensuring that IDPs play a strong role in camp management is a component of governments' responsibility to encourage and facilitate the participation of IDPs in the planning and management of programs to address their needs and protect their rights. The establishment of IDP committees in camps or other IDP settlements can be an important mechanism for facilitating consultation with IDPs and their participation in the design and implementation of programs. In Uganda, IDP committees were established in each of the camps. In Georgia, UNHCR found there to be "well-functioning IDP committees in collective centers";<sup>21</sup> however, that

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<sup>19</sup> The name of the province was officially changed in April 2010 to Khyber Pakhtunkhwa.

<sup>20</sup> International Conference for Peace, Security, Democracy and Development in the Great Lakes Region, First Summit of Heads of state and Governments, *Dar-es Salaam Declaration on Peace, Security and Democracy and Development in the Great Lakes Region, Draft 2*, Article 27 ([www.grandslacs.net/doc/3211.pdf](http://www.grandslacs.net/doc/3211.pdf)).

<sup>21</sup> UNHCR, "Input to Universal Periodic Review," 16 July 2010, para. 12.

finding varied among centers and mechanisms often were informal. In many countries, ensuring that such mechanisms include and enable the participation of IDP women has been especially difficult. Illustrating these challenges, a 2007 report on a fact-finding mission to Sri Lanka found that

in camp situations the men were better positioned to negotiate with authorities and were more likely to be consulted in decisionmaking or asked to assist with camp matters. There was no definitive mechanism in place to ensure that women were also part of decisionmaking processes in relation to camp administration and in relation to decisions with regard to the well-being of the displaced.<sup>22</sup>

In Georgia, notwithstanding the existence of a very active national IDP Women's Association and some strong women leaders, UNHCR found that "women still tend to take the back seat to men." Further, few IDP children and youth are involved in decisionmaking concerning IDPs.<sup>23</sup>

The formation by internally displaced persons themselves of IDP associations, groups or NGOs seems to make a difference in strengthening consultation with and participation of IDPs. In Colombia and Georgia, in particular, IDP associations have actively advocated for IDPs' rights and have been engaged in developing and monitoring laws and policies. Governments should support—or at the very least not obstruct—the establishment and functioning of such IDP associations. In

Afghanistan<sup>24</sup>, the Displaced Persons Council (DPC) was established in 2003 by the Afghan Ministry of Refugees and Repatriation, with the support of UNHCR. Comprising groups of IDPs and refugees originally from five northern provinces who were displaced elsewhere in Afghanistan as well as to the Balochistan region of Pakistan, the DPC was intended specifically to complement and inform the work of the Northern Return Commission and increase the participation of displaced populations in the return process. The DPC provided recommendations on how best to address obstacles to return, which were shared with the president (with whom the DPC met in October 2003 at the Presidential Palace), relevant government ministries, the Afghan Independent Human Rights Commission, governors in the places of origin, and the international community. However, by 2005, after the return of most DPC members to their places of origin, the DPC had ceased to function.<sup>25</sup> In some cases but very few (at least very few of those for which information is available), IDP associations have participated in UN humanitarian coordination mechanisms, including "cluster" meetings, as at times in Kenya and Georgia.

Consultation with IDPs is especially important in the context of durable solutions. In Kenya<sup>26</sup>, the government's inadequate consultation with and involvement of IDPs ahead of the government's resettlement program led to forcible closure of camps and IDPs who protested against delays in assistance were often violently dispersed during the initial phase of the program. Communities to which IDPs were returning or integrating were also not consulted, which resulted in IDPs being rejected in these communities.

As the Framework for National Responsibility points out, peace processes and peace building involve IDPs

<sup>22</sup> South Asians for Human Rights, "Report on the Fact-Finding Mission to the North and East of Sri Lanka to Assess the State of Displaced Persons," 8 August 2007 ([www.internal-displacement.org/8025708F004CE90B/\(httpDocuments\)/7B3BA7B8C19443E8C12573460046F130/\\$file/SAHR+Report.doc](http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/7B3BA7B8C19443E8C12573460046F130/$file/SAHR+Report.doc)).

<sup>23</sup> UNHCR, *Protection of Internally Displaced Persons in Georgia: A Gaps Analysis* (UNHCR and European Union, July 2009), p. 24. See also the Georgia case study in chapter 2 of this volume.

<sup>24</sup> See further, Afghanistan case study in chapter 2 of this volume.

<sup>25</sup> UNHCR, *Report of the Displaced Persons Council Meeting, 19–21 October 2003*, 15 November 2003; and IDMC, *Country Profile on Afghanistan*.

<sup>26</sup> See further the Kenya case study in chapter 2 of this volume.

and reinforce durable solutions.<sup>27</sup> In the peace process for resolving the conflict in Darfur, Sudan, there was some involvement of IDPs in the civil society group consultations held in Qatar in 2010 and 2011 between the Liberation and Justice Movement (LJM) and the government of Sudan; moreover, many of the representatives, both women and men, of the opposition groups participating in the talks were IDPs themselves.

Perhaps more than any other benchmark, the participation of IDPs in decisionmaking is difficult to assess. Some governments have made an effort to organize meetings with IDPs and to work with IDP associations, but whether that constitutes meaningful participation of IDPs in decisions that affect their lives remains unknown. At the most fundamental level, participation is about sharing power. Governments have a responsibility to protect and assist IDPs; to involve IDPs in making decisions is to share that responsibility.

### **9(b) Are IDPs able to exercise their right to vote without undue difficulties related to their displacement?**

As the Framework for National Responsibility notes, national responsibility for encouraging and facilitating IDPs' participation also entails safeguarding IDPs' right to political participation, as affirmed in Guiding Principle 22(d) cited above. However, the Framework also recognizes that "frequently IDPs face obstacles in exercising their right to vote and thereby to having

a say in the political and economic decisions affecting their lives." In countries with democratic traditions, the national constitution usually guarantees the rights of all citizens to vote. However, many IDPs face specific obstacles to exercising that right: they do not fulfill the residency requirements for electoral registration; they often lack documentation because it was lost, destroyed or confiscated in the course of displacement; they may be required to return to their community of origin in order to register to vote; and they may face intimidation or threats to their security related to their displacement when trying to vote.<sup>28</sup> When such obstacles exist, governments are expected to take special measures to ensure that IDPs can exercise their right to vote.

### **Overview of research findings: (b) Political participation, in particular, the right to vote**

The case studies illustrate a number of examples in which governments have taken measures to address such obstacles and thereby enable IDPs to participate in the political process, in particular by exercising their right to vote. Yet they also show that even when such obstacles are removed, additional efforts are required to promote IDPs' political participation if it is to be on par with that of nondisplaced populations.

Legal obstacles to IDPs' electoral participation often arise in relation to residency requirements for registration, which almost inevitably affect IDPs. National legislation in Georgia restricted the voting rights of IDPs in parliamentary and local elections in two main ways.<sup>29</sup> First, it extended indefinitely the mandate of the parliamentary deputies from Abkhazia, who also were displaced and were serving their electoral term at the time of displacement. Second, the combined effect of

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<sup>27</sup> Brookings-Bern Project on Internal Displacement, *IASC Framework on Durable Solutions for Internally Displaced Persons*, April 2010, p. 24 ([www.brookings.edu/reports/2010/04\\_durable\\_solutions.aspx](http://www.brookings.edu/reports/2010/04_durable_solutions.aspx)). See further, Gerard McHugh and others, *Integrating Internal Displacement in Peace Processes and Agreements*, Peacemakers' Toolkit (Washington: Brookings Institution and United States Institute for Peace, February 2010) ([www.brookings.edu/reports/2010/0216\\_internal\\_displacement\\_mchugh.aspx](http://www.brookings.edu/reports/2010/0216_internal_displacement_mchugh.aspx)); Brookings-Bern Project on Internal Displacement, *Addressing Internal Displacement in Peace Processes, Peace Agreements and Peace-Building*, September 2007 ([www.brookings.edu/reports/2007/09\\_peaceprocesses.aspx](http://www.brookings.edu/reports/2007/09_peaceprocesses.aspx)).

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<sup>28</sup> Erin Mooney and Balkees Jarrah, "Safeguarding IDP Voting Rights," *Forced Migration Review*, no. 23 (2005), p. 55.

<sup>29</sup> For more detailed analysis of Benchmark 9(b) in the context of Georgia, see the Georgia case study in chapter 2 of this volume.

the Electoral Code and the law on IDPs meant that IDPs could not register their residence in the location of their displacement—and thereby be entitled to vote in that electoral district—without losing their IDP status and the entitlements it entails under national law. In other words, IDPs were doubly disenfranchised: they were unable to vote for deputies from their area of origin and for those representing the locality where they resided during their displacement. NGOs brought the issue before the Constitutional Court. Francis Deng, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons (RSG on IDPs), OHCHR, and the OSCE also undertook advocacy on the issue, which NGOs raised in the UN Human Rights Committee and UN Commission on Human Rights (now UN Human Rights Council). In 2001 and 2003, the Election Code was amended to remove the restrictions preventing IDPs from exercising their right to vote in their current place of residence. Moreover, in 2003, a decision of Parliament ended the mandate of the Abkhaz parliamentary deputies, last elected in 1992, with their seats to be left vacant until such time that parliamentary elections can be held again in Abkhazia.<sup>30</sup> However, there still are practical difficulties—for example, in registering IDPs on electoral lists—and there is a certain disenchantment among IDPs with the political process and their resulting disengagement from it.

In Iraq, legal and practical obstacles have impeded IDPs' exercise of their voting rights, though a number of the issues have now been addressed. The nonregistration of IDPs and returnees “remains a significant humanitarian concern,” according to RSG Walter Kälin's report following his visit to Iraq in 2010, as it inhibits or precludes access to basic services and government assistance, impedes the transfer or recognition of certain documents and the rental or purchase of land, and impedes exercise of the right to vote. During his visit, however, Kälin was informed of the government's willingness and intention

to reopen registration procedures for all IDPs.<sup>31</sup> Many of the more than 200,000 people who had recently been displaced from Fallujah were unable to register before the deadline to vote in the 2005 elections; other IDPs were unable to register due to a lack of documentation; and there were no provisions for absentee voting.<sup>32</sup> Security concerns also made it difficult for IDPs to travel to polling stations. To address that issue, in the January 2005 election in Iraq, polling stations were set up in the camps, at least for IDPs who had been displaced from Fallujah.<sup>33</sup> By the March 2010 parliamentary elections, an amendment to Law No. 16 (2005) on elections meant that IDPs were able to register at the location of displacement to vote in elections in their electoral districts in their place of origin—that is, through absentee voting.<sup>34</sup> A displaced voter was defined as an Iraqi who was forcibly displaced from his/her permanent place of residence to another place inside Iraq after 9 April 2003, for whatever reason. While only 97,000 IDPs—around 5 percent of the total figure for IDPs displaced since 2003—registered to vote as absentees during the voter registration updates that occurred in 2008 and 2009, all Iraqis registered in the public distribution system for food rations were automatically registered to vote. According to the UN Assistance Mission in Iraq (UNAMI), there were 1,100 polling stations for IDPs registered for absentee voting; in addition, 541 polling stations were set up for conditional absentee voting for voters registered as IDPs with the Ministry of Trade or the Ministry of Displacement and Migration who did not register with the Independent High Electoral Commission for absentee voting.<sup>35</sup> Total voting turnout

<sup>30</sup> Erin Mooney and Balkees Jarrah, *The Voting Rights of Internally Displaced Persons: The OSCE Region* (Brookings-SAIS Project on Internal Displacement, November 2004), pp. 33–41.

<sup>31</sup> UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Visit to Iraq, A/HRC/16/43/Add.1*, para. 52, 16 February 2011 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)).

<sup>32</sup> Erin Mooney and Balkees Jarrah, “Iraq's Displaced Voters,” *New York Times*, Letter to the Editor, 25 January 2005.

<sup>33</sup> Mooney and Jarrah, “Safeguarding IDP Voting Rights,” p. 55.

<sup>34</sup> Amendment passed by the Council of Representatives in November 2009 and approved by the Presidency Council of Iraq in December 2009.

<sup>35</sup> UNAMI Electoral Assistance Office, *Fact Sheet: Voting for*



was 12 million, or 62 percent of the registered population of around 18 million.<sup>36</sup>

In both Georgia and Iraq as well as the other countries that have a national policy on IDPs, the policy tends to include provisions reaffirming IDPs' right to political participation, including the right to vote. In Colombia, the right of IDPs to vote in national and local elections is reaffirmed in Law 387 (1997) and the Constitutional Court's Decision T-025 (2004).<sup>37</sup> However, in practice, the fact of displacement, registration issues, and insecurity are major obstacles for many IDPs to participating in elections.<sup>38</sup>

In Nepal, IDPs' entitlement to vote in elections in accordance with the law is affirmed in the National Policy on Internally Displaced Persons (2007),<sup>39</sup> but they must vote in their original place of residence; however, IDPs

rarely return to their original residence, as the RSG on IDPs noted following his 2005 mission to Nepal.<sup>40</sup> Moreover, IDPs face many other disenfranchising conditions, including lack of documentation, discrimination, insecurity, acts of intimidation, lack of awareness and financial constraints. Further compounding their difficulties, IDPs in Nepal tend to be from rural areas and to be only semi-literate and, in many areas, the government itself was displaced and was therefore "unable to provide documentation or proofs of citizenship to local residents who may have been displaced subsequently."<sup>41</sup> Sudan's National Policy on Internally Displaced Persons (2009) provides that IDPs have a right to equal participation in public affairs.<sup>42</sup> However, a flawed census in 2008, on which electoral representation was based, meant that many were excluded from voter lists in the most recent national elections, the general elections held in 2010. For example, most of the estimated 2.6 million IDPs in Darfur living in camps and the people living in areas under rebel control were among those not enumerated.<sup>43</sup> IDPs in the North were also under-represented in the census and under-registered for the 2010 general elections, including in Khartoum.<sup>44</sup> For

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*Internally Displaced Persons (Absentee Voting)* ([www.ihec-iq.com/en/factsheets.html](http://www.ihec-iq.com/en/factsheets.html)); UNAMI, *Iraq Election 2010*, bi-annual magazine, June 2010 ([www.uniraq.org/FileLib/misc/For\\_Iraq\\_August\\_2010\\_EN.pdf](http://www.uniraq.org/FileLib/misc/For_Iraq_August_2010_EN.pdf)); U.S. Embassy of Iraq, *Iraqi National Election 2010: FAQ* (<http://iraq.usembassy.gov/root/pdfs/electionsfaq.pdf>).

<sup>36</sup> UNAMI, "Electoral Support," ([www.uniraq.org/electoral/ElectoralSupport.asp](http://www.uniraq.org/electoral/ElectoralSupport.asp)).

<sup>37</sup> Government of Colombia, Law 387 of 1997; Constitutional Court of Colombia, Third Review Chamber, Decision T-025 of 2004, Both are available in Spanish and English at Brookings-LSE Project on Internal Displacement, "National and Regional Laws and Policies on Internal Displacement: Colombia," ([www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx)) Both are also available in English in: Rodolfo Arango Rivadeneira, ed., *Judicial Protection of Internally Displaced Persons: The Colombian Experience* (Washington, DC: Brookings-Bern Project on Internal Displacement, November 2009), Annexes ([www.brookings.edu/papers/2009/11\\_judicial\\_protection\\_arango.aspx](http://www.brookings.edu/papers/2009/11_judicial_protection_arango.aspx)).

<sup>38</sup> CODHES, "Desplazados de la democracia. Garantías políticas y riesgos electorales," 5 March 2010 (<http://reliefweb.int/node/347221>).

<sup>39</sup> Section 8.1.11. Full text of the policy in English, available at Brookings-LSE Project on Internal Displacement, "National and Regional Laws and Policies on Internal Displacement: Nepal," ([www.brookings.edu/projects/idp/Laws-and-Policies/nepal.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/nepal.aspx)).

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<sup>40</sup> UN General Assembly, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons*, A/60/338, 7 September 2005 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)).

<sup>41</sup> Citation from Anita Ghimire, "Enfranchising IDPs in Nepal," *Forced Migration Review*, iss. 28, July 2007, p. 48 ([www.fmreview.org](http://www.fmreview.org)). See also, Norwegian Refugee Council, "IDPs Excluded from Voting in their Place of Displacement," April 2008 ([www.nrc.no/?did=9262093](http://www.nrc.no/?did=9262093)).

<sup>42</sup> Government of the Sudan, Ministry of Humanitarian Affairs, National Policy on Internally Displaced Person (IDPs), 2009, Article 6. Full text available in English at Brookings-LSE Project on Internal Displacement, "National and Regional Laws and Policies on Internal Displacement: Sudan," ([www.brookings.edu/projects/idp/Laws-and-Policies/sudan.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/sudan.aspx)).

<sup>43</sup> International Crisis Group, "Rigged Elections in Darfur and the Consequences of a Probable NCP Victory in Sudan," 30 March 2010 ([www.crisisgroup.org](http://www.crisisgroup.org)); IDP Action, "IDPs and Elections in Sudan," 11 March 2010 (<http://reliefweb.int/node/347883>).

<sup>44</sup> IDP Action, "IDPs and Elections in Sudan," 11 March 2010 (<http://reliefweb.int/node/347883>).

the referendum, held in January 2010, on the status of South Sudan, hundreds of thousands of IDPs returned from the North to cast their vote. In the North, 69,597 of 116,857 registered voters cast their vote, for a 60 percent turnout. Given that over 47,000 of those votes were absentee votes (but not votes from out of country, which were tabulated separately), there was about a 40 percent rate of absenteeism.<sup>45</sup>

Uganda's National Policy on Internally Displaced Persons does not contain any specific reaffirmation of IDPs' right to vote, as enshrined in the Constitution for all citizens, although it does expressly state that all national, regional and local authorities shall take into account international and regional conventions and other standards, including the Guiding Principles on Internal Displacement (which do reaffirm this right). Nonetheless, an assessment report issued in 2005, in advance of the 2006 national elections, recommended various measures to be taken by the government as well as by other actors to ensure that IDPs could exercise their right to vote in practice.<sup>46</sup>

Sri Lanka's government has developed a strong framework ensuring the electoral participation of IDPs in principle,<sup>47</sup> but there have been many obstacles in practice, as seen in the presidential and parliamentary elections held over the past decade. For example, in the 2010

presidential elections, while temporary camp cards were to have been used as voter registration cards, there was considerable uncertainty as to whether they would be accepted at the polling stations. Moreover, transportation problems made it difficult for IDPs to return to vote in their district; only 25,541 of 45,542 displaced voters in the North took part.<sup>48</sup>

In Afghanistan, the Elections Law (2010) affirms the right of all Afghan citizens to participate in elections, prohibits restriction of this right on the basis of "social status,"<sup>49</sup> and states that the Independent Election Commission "shall provide special voting facilities for nomads, refugees, internal displaced people" and other groups.<sup>50</sup> In 2005, the Joint Electoral Management Body created an election operational plan for the Constituent Assembly elections. The plan specifically mentions preparing and promoting materials that help to "encourage the participation of minorities, internally displaced persons (IDPs) and refugees, nomads and disabled persons."<sup>51</sup> In Kenya, the National Accord gave priority to the replacement of documents lost in the post-election violence, and in May 2008, the government began facilitating the issuance of new or replacement documents for those lost or destroyed in the course of

<sup>45</sup> See the detailed data report, Southern Sudan Referendum Commission, *Southern Sudan Referendum Final Results Report*, 7/2/2011 ([http://southernsudan2011.com/sites/default/files/Final\\_Results\\_Report\\_20110206\\_1512.pdf](http://southernsudan2011.com/sites/default/files/Final_Results_Report_20110206_1512.pdf)).

<sup>46</sup> *Uganda: Internally Displaced Persons in the 2006 National Elections: Action Plan*, IOM Project on Political Rights and Enfranchisement System Strengthening (PRESS), May 2005 ([www.geneseo.edu/~iompress/Archive/Outputs/Uganda\\_Action%20Plan\\_PRESS\\_May\\_05.pdf](http://www.geneseo.edu/~iompress/Archive/Outputs/Uganda_Action%20Plan_PRESS_May_05.pdf)).

<sup>47</sup> See further the Sri Lanka case study in chapter 2 of this volume. See, for example, IOM's 2006 report, which notes that "with the exception of some important technical flaws and localized problems of inadequate implementation, the legal framework governing IDP voting could serve as an example of best practices for other countries with substantial numbers of IDPs" ([www.geneseo.edu/~iompress/Archive/Outputs/Sri\\_Lanka\\_Final.pdf](http://www.geneseo.edu/~iompress/Archive/Outputs/Sri_Lanka_Final.pdf)).

<sup>48</sup> CaFFE, "About 700,000 Did Not Vote in North," 1 February 2010 ([www.caffe.lk/About\\_700,000\\_did\\_not\\_vote\\_in\\_North-5-1743.html](http://www.caffe.lk/About_700,000_did_not_vote_in_North-5-1743.html)).

<sup>49</sup> Article 5, *Decree of President of the Islamic Republic of Afghanistan on Promulgation of the Election Law (Election Law 2010)*, 18 February 2010. See further, *Realizing National Responsibility for the Protection of Internally Displaced Persons in Afghanistan: A Review of Relevant Laws, Policies, and Practices*, Brookings-Bern Project on Internal Displacement and the Norwegian Refugee Council, November 2010, p. 27 ([www.brookings.edu/idp](http://www.brookings.edu/idp)).

<sup>50</sup> Article 14, *Decree of President of the Islamic Republic of Afghanistan on Promulgation of the Election Law (Election Law 2010)*.

<sup>51</sup> Joint Electoral Monitoring Body, 2005 Afghanistan Constituent Assembly, "Election Operational Plan Outline," 8 March 2004 ([www.iec.org.af/Public\\_html/Main%20Documents/Draft%20for%202005%20Constituent%20Assembly.pdf](http://www.iec.org.af/Public_html/Main%20Documents/Draft%20for%202005%20Constituent%20Assembly.pdf)).

displacement.<sup>52</sup> In the run-up to the August 2010 referendum, the Interim Independent Electoral Commission set up voter registration centers near camps and urged IDPs to register.<sup>53</sup> The commission carried out a fresh registration of voters countrywide; hence IDPs did not need to return to the regions from which they were displaced to obtain documentation or to vote. During the referendum period, security was judged adequate for voters.

In the Central African Republic, important legislative amendments to the Electoral Code were introduced in 2010, which should address several potential obstacles to IDPs' electoral participation. The amendments address concerns such as lack of documentation, voter registration, and change of residence regulations. Even so, the fact that the Election Code does not allow for the possibility of absentee voting is certain to have a negative impact on IDPs' ability to exercise their right to vote. Moreover, to change the electoral district in which a voter is registered requires the voter to return to his or her place of previous residence to obtain a certificate of removal from the list for that district. Most IDPs are unlikely to be able to make the trip because of insecurity, lack of funds, or means of transport; in any case, the presence of administrative agencies of the state in these areas is weak. To better take into account the obstacles that IDPs face, further amendments to the Election Code are required.<sup>54</sup>

Sometimes IDPs do not participate in elections because of the same problems facing all voters; it is hard therefore to determine to what extent low turnout rates

are the result of displacement. Many of the countries in this study are not democracies (Yemen, Myanmar) while others are beset by serious problems with security (Afghanistan, Colombia, Iraq and Central African Republic).

Governments are often seen by citizens as corrupt, and close relationships between government officials and armed groups may inhibit citizens from participating in a process that they consider illegitimate or irrelevant. When IDPs perceive governments and armed groups as having caused their displacement, IDPs may decide not to participate in the electoral process.

The electoral participation of women and of minority groups—who often make up large numbers of the IDP population in any given situation—generally is especially low. In Afghanistan, the UN Assistance Mission for Afghanistan (UNAMA) and national and international observers reported significant irregularities in the general elections in August 2009 and, noting the prevailing insecurity in much of the country, “relatively low participation of women and voters in general, especially in conflict-affected areas.”<sup>55</sup> Language also was an issue in Afghanistan, where the lack of public announcements in local languages about the campaign process prompted complaints from civil society representatives.<sup>56</sup> Language has also been an issue in Turkey, where prohibitions against the use of the Kurdish language as well as of the registration of minority political

<sup>52</sup> South Consulting, *Status of Implementation Report*, August 2008.

<sup>53</sup> “Commission Calls on IDPs to Register,” *The Standard*, 5 April 2010 ([www.standardmedia.co.ke/InsidePage.php?id=2000007034&catid=159&a=1](http://www.standardmedia.co.ke/InsidePage.php?id=2000007034&catid=159&a=1)).

<sup>54</sup> Erin Mooney, *Examen du cadre normatif de la République Centrafricaine relatif à la protection des personnes déplacées à l'intérieur de leur propre pays* (Washington, D.C.: Brookings-Bern Project on Internal Displacement, February 2011), pp. 66–70 ([www.brookings.edu/reports/2010/11\\_car\\_audit\\_juridique.aspx](http://www.brookings.edu/reports/2010/11_car_audit_juridique.aspx)).

<sup>55</sup> AIHRC/UNAMA, *AIHRC-UNAMA Joint Monitoring of Political Rights: Presidential and Provincial Council Elections, Third Report*, 1 August–21 October 2009, p. 1 (<http://unama.unmissions.org/Portals/UNAMA/human%20rights/3rd%20PRM%20report%2022%20oct%20ENG.pdf>); See also, *The Situation in Afghanistan and Its Implications for International Peace and Security: Report of the Secretary-General*, A/64/705–S/2010/127, UN General Assembly/UN Security Council, 10 March 2010, Annex, p. 16 ([www.un.org/Docs/sc/sgrep10.htm](http://www.un.org/Docs/sc/sgrep10.htm)).

<sup>56</sup> *Islamic Republic of Afghanistan, Presidential and Provincial Council Elections, 20 August 2009, OSCE/ODIHR Election Support Team, Final Report*, OSCE, p. 33 ([www.osce.org/odihr/elections/40753](http://www.osce.org/odihr/elections/40753)); Article 16, Constitution of the Islamic Republic of Afghanistan, 2004.

parties have inhibited the participation of the Kurdish population, who make up the overwhelming majority of IDPs in the country.<sup>57</sup>

In the Democratic Republic of the Congo, some of the identified obstacles to IDP participation include lack of documentation, lack of legislation or policies enabling IDPs to vote in their community of origin, difficulties in transport, or even outright intimidation. In DRC's 2006 general elections, millions of voters elected Joseph Kabila as the country's first democratically elected president.<sup>58</sup> However, according to the DRC's electoral law, citizens had to vote in the place of registration. The majority of the country's 1.7 million IDPs at the time could not participate in the elections, particularly those in Ituri district, North Kivu province and Katanga province, according to the Office for the Coordination of Humanitarian Affairs. Most had left their voter registration cards behind or lost them in flight from armed groups. But insecurity also limited IDPs' freedom of movement to register; some IDPs refused to return home to vote due to fear of armed groups.<sup>59</sup> Looking ahead to the general elections tentatively scheduled for November 2011, IDPs who remain displaced may be unable to exercise their right to vote or the right to register on the electoral rolls.<sup>60</sup>

<sup>57</sup> See the chapter on Turkey in Mooney and Jarrah, *The Voting Rights of Internally Displaced Persons in the OSCE Region*, pp. 61–64.

<sup>58</sup> The Carter Center, "Background: The Carter Center and the Historic 2006 Democratic Republic of the Congo Elections," 27 October 2006 ([www.cartercenter.org/news/pr/drc\\_122606.html](http://www.cartercenter.org/news/pr/drc_122606.html)).

<sup>59</sup> See for example, Tim Cocks, "RPT: Congo's Displaced Struggle to Vote," Reuters, 28 October 2006 ([www.alertnet.org/thenews/newsdesk/L28881924.htm](http://www.alertnet.org/thenews/newsdesk/L28881924.htm)).

<sup>60</sup> This was recognized by the RSG for IDPs with respect to the elections scheduled at the time for 2008; see UN Human Rights Council, *Report Submitted by the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to the Democratic Republic of the Congo, A/HRC/8/6/Add.3*, 16 May 2008, paras. 56–57 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)).

Even when there are no administrative obstacles to participation, there can be "self-censorship" of political participation. In Kenya,<sup>61</sup> IDPs displaced by the 2007–2008 post-election violence face undue difficulties because of the trauma from the last elections. Many IDPs associate voting with violence and displacement: "I am in the tent because I voted; why should I vote if it means this?"<sup>62</sup> Reluctance to participate in the electoral process is not a new phenomenon. The UN Fund for Women (UNIFEM) reported that there was low IDP voter turnout during the 1997 general elections due primarily to trauma from the previous election cycle, which caused displacement.<sup>63</sup> Aside from a fear of violence, some IDPs felt that the government had neglected them;<sup>64</sup> threatening not to vote was a strategy to draw attention to their plight as a constituency of voters.<sup>65</sup> Lack of confidence in the electoral system also led some IDPs to consider boycotting the whole electoral process.<sup>66</sup>

Overall, the lack of systematic and detailed data on IDP participation in elections is striking. It is ironic that despite a solid architecture and tradition of international election monitoring globally and in the countries surveyed, the internally displaced—who not only have so much at stake in elections but also tend to be among those who lose out the most—are not a core component of all efforts to monitor and report on elections. A detailed analysis of OSCE election monitoring over several years in all IDP-affected countries shows that even in those cases, monitoring of IDPs' ability to exercise their right to

<sup>61</sup> See further the Kenya case study in chapter 2 of this volume.

<sup>62</sup> From an interview with a displaced woman at the Pipeline IDP Camp in Nakuru, 20 November 2010. See the Kenya case study, in chapter 2 of this volume.

<sup>63</sup> Prisca Mbura Kamungi, *The Lives and Life-Choices of Dispossessed Women in Kenya*, UNIFEM–African Women in Crisis Programme (UNIFEM/AFWIC), January 2002.

<sup>64</sup> "IDPs Shun Voter Registration, Claim Neglect," *The Standard*, 24 March 2010.

<sup>65</sup> South Consulting, *Status of Implementation Report*, October 2010.

<sup>66</sup> "Kenya: IDPs to Boycott Voter Registration," AfricaNews.com, 25 March 2010 ([www.africanews.com/site/Kenya\\_IDPs\\_to\\_boycott\\_voter\\_registration/list\\_messages/30828](http://www.africanews.com/site/Kenya_IDPs_to_boycott_voter_registration/list_messages/30828)).

vote is by no means consistent (for example, monitoring is active in Georgia but altogether lacking in Turkey).<sup>67</sup> While the lack of any information on IDPs' electoral participation in the Central African Republic, Myanmar and Pakistan is perhaps understandable given the political landscape in those countries, there are other cases in which one could expect more reporting on IDP participation. For example, in countries such as Nepal, Iraq and Afghanistan, there has been tremendous political interest in elections, with attention focused on electoral laws, systems, monitoring teams and the substantial international resources allocated to them; each country also has a UN agency (UN Mission in Nepal or UNMIN; UN Assistance Mission for Iraq or UNAMI); and UN Assistance Mission in Afghanistan or UNAMA, respectively) dedicated to it to assist with elections and to strengthen the rule of law and the justice system through other measures. Nonetheless, there appears to have been no collection of data on the extent to which IDPs participate in elections even in high-profile cases such as Afghanistan and Iraq. It also is surprising that in countries such as Colombia and Sri Lanka, where there has long been awareness of IDP issues and strong interest in the democratic process, there also has been so little effort to monitor the participation of IDPs in elections.

There may be a broader vicious cycle at play in the issue of political participation of IDPs in elections. Even when there are no political or administrative obstacles, IDPs may not vote because they consider national politics to be irrelevant to their lives. But when they do not participate, politicians do not have to respond to their concerns or their displacement seriously. Perhaps the reason that political leaders have not given priority to

IDP issues—to being more active in adopting needed laws and policies and promoting durable solutions—is that they do not perceive IDPs as a political constituency.

## Conclusion

Across the fifteen countries surveyed, governments performed especially poorly in ensuring IDP participation in decisionmaking. Too often such efforts are limited to information sharing—one-way communication that does not constitute meaningful participation—and often not conducted properly. At best, most of the governments surveyed occasionally consulted with IDPs; however, it was difficult to gauge whether those consultations in fact represented meaningful participation. There is a difference between consultation with IDPs and their participation in decisionmaking; in none of the cases can it be definitively concluded that IDPs were active participants in decisionmaking. However, perhaps more than with other benchmarks, it is difficult to assess without talking with IDPs whether such consultative mechanisms were effective (although some effort was made, particularly in the case studies, to compensate by referring to polls and surveys of IDP opinions, where available). Another important indicator is whether governments take action to remove any specific obstacles that IDPs face, as a result of their displacement, to electoral participation, in particular to exercising their right to vote.

Displacement is linked to politics, and those who are displaced are among the most vulnerable as they tend to be already marginalized or discriminated against by their own government. Because of that, it stands to reason that their full political participation in decisionmaking and in elections is not supported by the government. With respect to voting, that is evident in the administrative and bureaucratic obstacles that IDPs face in registering to vote and in their ability to vote in elections even when registered, as examined herein. More difficult to measure is whether IDPs actually view it as valuable to actively participate in the political process when such obstacles are removed.

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<sup>67</sup> Mooney and Jarrah, *The Voting Rights of Internally Displaced Persons in the OSCE Region*; see, in particular, pp. 63–68, “Conclusions and Recommendations,” which found that “the OSCE, both at the policy level and in the field, should devote greater and more systematic attention to the voting rights of IDPs. Particular priority should be given to mainstreaming IDP voting rights into the work of election observation missions and to ensuring that there is systematic monitoring and reporting on the extent to which IDPs are in fact able to vote.”



**Pakistan / An IDP man and his son get ready to leave Jalozai camp, where they have been accommodated for the past two months. They will return to their homes in the Swat valley. The bus ride from Jalozai to their village takes 4 to 5 hours. While some people are looking forward to returning, others remain concerned by the security near their villages of origin.  
Photo: UNHCR / H. Caux / July 2009**

## Benchmark 10

### Establish the Conditions and Provide the Means for IDPs to Secure Durable Solutions

#### ***Is the government working—or has it worked—to establish conditions enabling IDPs to secure a durable solution to displacement?***

A durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs linked to their displacement and they can enjoy their human rights without discrimination based on their displacement. It can be achieved through the following:

- sustainable reintegration in the place of origin (hereafter referred to as “return”)
- sustainable local integration in areas where internally displaced persons take refuge (local integration)
- sustainable integration in another part of the country (settlement elsewhere in the country).

As articulated in Principle 28 of the Guiding Principles on Internal Displacement, IDPs have a right to a durable solution and national authorities bear “the primary duty and responsibility to establish conditions, as well as provide the means” that allow IDPs to achieve durable solutions.<sup>1</sup> Supporting durable solutions is a gradual process that usually requires the additional involvement of a number of actors, including local authorities as well as humanitarian and development agencies, to identify the right strategies to assist and involve IDPs. Securing durable solutions is in the state’s best interest. Leaving IDPs in a continuing state of marginalization without the prospect of a durable solution could impede long-term stability, recovery and reconstruction in post-crisis countries.

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<sup>1</sup> Principle 28(1), Section V, *Guiding Principles on Internal Displacement*.

While the resolution of a conflict—for example, by the signing of a peace agreement—creates opportunities to find durable solutions, it usually is not sufficient in itself to create a durable solution. Although no systematic data are available, it seems that the longer displacement lasts, the more difficult and the more unlikely return to the place of origin becomes. Most national authorities want IDPs to return to their communities once the issue that provoked their displacement is resolved, unless, of course, those authorities condoned or even caused the displacement to achieve political or military objectives. For the most part, IDPs, too, hope to be able to return home if certain conditions are in place. Indeed, they may insist on return as the only just remedy for their displacement while also insisting on support for their local integration in the interim. In many instances in which return is the preferred option, national authorities are loath to assist in the local integration of the displaced for fear of sending the message that their displacement is permanent rather than temporary.

Displacement changes individuals and societies, sometimes irreversibly. Especially in protracted situations, concepts of “home” can change, especially among those who are born into displacement. In addition, the issue of when and how displacement is resolved is usually highly politicized, with governments or other actors favoring certain solutions over others for their own reasons, irrespective of the preferences of the displaced.

In the case of natural disasters, solutions are in some respects more straightforward but in other regards more complex. Unlike in situations of displacement due to conflict, political violence or human rights violations, the possibility of return home after a disaster does not necessarily evoke fear of ongoing persecution, violence or retribution. However, the risk of a recurrence of disaster can be just as powerful an obstacle to return. Moreover, the destruction caused by a disaster can alter the landscape to such an extent that there no longer is any land—or any safe, habitable land—to which IDPs can return.

The Guiding Principles on Internal Displacement—which reflect international law, international

humanitarian law and international human rights law—underscore that regardless of the cause of displacement, “the competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow IDPs to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.” The human rights of IDPs must be respected during the process of finding durable solutions, and certain basic conditions must be met before it can be said that a durable solution has been realized. Based on the Guiding Principles, the Framework for Durable Solutions specifies that the process of resolving displacement must include the following:<sup>2</sup>

- voluntary and informed choice by IDPs of a location for a durable solution
- participation of IDPs in planning and management of durable solutions
- access to actors supporting durable solutions
- access to effective monitoring
- involvement of IDPs in peace processes and peace building and reinforcement of durable solutions for IDPs within those processes.

The Framework also spells out a set of criteria for determining the extent to which a durable solution has been achieved. There are four criteria of universal importance:

- long-term safety and security
- enjoyment of an adequate standard of living, without discrimination
- access to livelihoods and employment
- effective and accessible mechanisms to

restore housing, land and property.

In a number of contexts, consideration also needs to be given to ensuring that IDPs enjoy, without discrimination,

- access to personal and other documentation, without discrimination
- family reunification
- participation in public affairs, without discrimination
- access to effective legal remedies and justice.

Taken together, these are high standards, and not all of them have been met in any of the fifteen countries included in this study (or in most other situations of internal displacement worldwide). That fact underscores the challenges and considerable investment—of time, resources and political will—required to achieve lasting solutions to displacement. Nevertheless, it must be pointed out that most governments represented in this study took some measures to promote solutions for those displaced within their borders.

## Overview of research findings

Finding solutions to displacement caused by conflict inevitably is closely linked to conflict-resolution efforts. When IDPs are able to return to their homes and communities in safety and dignity, it is a clear sign that a conflict is over or moving toward resolution or at least stabilization. Conversely, protracted displacement may be a result of protracted conflict. Yet even when a conflict is resolved, full implementation of a peace agreement and of durable solutions for all those displaced can take years. There also are cases in which governments seek to demonstrate that a conflict has been resolved by promoting IDP return—even when violence and insecurity persist in the area that they fled. In the consolidated

<sup>2</sup> *Framework on Durable Solutions*, 2010, p. 5.



analysis below, a distinction is made between

—countries in which the conflict that caused displacement has ended, whether through a negotiated peace or lasting cease-fire agreement (Nepal, Uganda and Kenya) or through a decisive military operation (Sri Lanka)

—countries in which the conflict is ongoing or violence still persists (Afghanistan, the Central African Republic, Colombia, the Democratic Republic of the Congo, Iraq, Myanmar, Pakistan, Sudan and Yemen)

—countries in which the conflict is “frozen” in that active hostilities have ceased but little hope exists that the conflict will be resolved definitively in the near future (Turkey and Georgia).

A number of the countries in this study have also experienced natural disasters which have resulted in internal displacement. While a full review of national response in this context was beyond the scope of this study, some analysis of their government’s approach to durable solutions for disaster-induced IDPs is included at the end of the summary analysis for those countries (Nepal, Myanmar and Pakistan).

### **Countries in which the conflict that caused displacement has ended**

In Nepal, the signing of the Comprehensive Peace Agreement (CPA) in November 2006 spurred the return of tens of thousands of IDPs. Provisions of the CPA pertaining to durable solutions for the displaced included commitments to rehabilitate people displaced by the war, to return occupied land and property and to allow for the return of displaced persons.<sup>3</sup> While Nepal’s National Policy on Internally Displaced Persons (2007) includes provisions for return, integration or

<sup>3</sup> Government of Nepal, *Comprehensive Peace Accord Concluded between the Government of Nepal and the Communist Party of Nepal (Maoist)*, 2006 ([www.peace.gov.np/admin/doc/CPA\\_eng-ver-corrected.pdf](http://www.peace.gov.np/admin/doc/CPA_eng-ver-corrected.pdf)).

resettlement, relief assistance packages are available only to those who return. This practice indicates that the government prefers return as a solution and discriminates against IDPs who opt for local integration. The shortcomings of the government in guaranteeing security, nondiscrimination, access to basic services and property rights as well as difficulties in implementing reconciliation efforts have prevented tens of thousands of IDPs from achieving durable solutions. As of January 2010, four years after the signing of the CPA and three years after the adoption of the national policy, between 50,000 and 70,000 people remained internally displaced.<sup>4</sup>

IDP return also gained momentum after the government launched a relief assistance effort in 2007—a three-year program funded by the Nepal Peace Trust Fund (NPTF) to implement the CPA. The assistance, in the form of “state relief and assistance packages” was limited to officially registered IDPs who are willing to return to their place of origin—although in many districts, up to half of IDPs have been unable to register for assistance.<sup>5</sup> By November 2008, just over 28,000 of the 35,000 registered IDPs had received assistance—typically a subsistence allowance for a period of four months and some support for transportation—and by end 2009,

<sup>4</sup> The figures refer to those displaced between 1996 and 2006. No accurate displacement figures are available due to lack of monitoring and comprehensive registration. Figures are from the Nepal IDP Working Group (50,000–70,000, as of June 2009) and the government of Nepal (70,425, as of September 2009). See further, Internal Displacement Monitoring Centre (IDMC), *Nepal: Failed Implementation of IDP Policy Leaves Many Unassisted: A Profile of the Internal Displacement Situation*, 28 January 2010, pp. 89–92 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>5</sup> The state relief and assistance packages replaced a more extensive relief and rehabilitation scheme cancelled due to limited resources that was to target 50,000 IDPs with a total budget of \$5 million. Nepal IDP Working Group, *Distant from Durable Solutions: Conflict-Induced Internal Displacement in Nepal*, June 2009, [hereafter, *Distant from Durable Solutions*] ([www.internal-displacement.org](http://www.internal-displacement.org)); IDMC, *Overview: Failed Implementation of IDP Policy Leaves Many Unassisted*, p. 5 ([www.internal-displacement.org](http://www.internal-displacement.org)).

none of the agricultural loans envisaged as part of the returnee assistance had been disbursed.<sup>6</sup> The Ministry of Peace and Reconstruction had spent only 42 percent of the NPTF funds.<sup>7</sup> Of the nineteen districts that the working group surveyed throughout Nepal, only three reported having been allocated sufficient funds to meet the needs of registered IDPs. The assistance is especially vital as employment opportunities are lacking for many IDPs and returnees.<sup>8</sup>

Nearly half of the returnees interviewed by the Nepal IDP Working Group reported serious land, housing and property problems. More than 10,000 cases for compensation for lost or damaged property were recorded by a task force formed by the Ministry of Peace and Reconstruction in 2007. However, by the end of 2009, only 2,000 families had received support to reconstruct or repair their houses.<sup>9</sup> It is widely reported that IDPs with non-Maoist political affiliations have been the most likely not to recover land and property or not to have their land returned unconditionally.<sup>10</sup>

The Internal Displacement Monitoring Centre (IDMC) reports that lack of capacity and poor coordination have hindered the limited number of government-initiated resettlement initiatives. A pilot resettlement project

was under way in Kanchanpur district as of early 2010, but the four-year project has focused only on housing construction, with no livelihood or basic service components.<sup>11</sup>

Durable solutions for IDPs in Nepal are also hindered by ongoing social tension and discrimination, especially manifest in relations between lower castes and minority ethnic groups. According to the Nepal IDP Working Group in 2009, almost 40 percent of surveyed returnees reported discrimination due to tension with the rest of the community. Dalits and indigenous groups such as the Tharus, already marginalized in Nepal's caste system, were deliberately targeted by both Maoists and government forces, and many fled their homes during the conflict. Discrimination is also attributable in many instances to the stigma attached to being an IDP in Nepalese society; many IDPs prefer not to be known as IDPs.<sup>12</sup>

Under the CPA, both the government and the Communist Party of Nepal (Maoist) committed themselves to respecting a permanent cease-fire and to giving priority to respecting a broad spectrum of human rights. As mandated by the CPA, the National Human Rights Commission of Nepal (NHRC) monitors both parties' upholding of their human rights commitments under the agreement, investigates human rights violations and issues recommendations (see Benchmark 8). In its three-year review of the CPA, the NHRC found some improvement in the parties' human rights record but noted that they were not in compliance with all of their obligations, including by allowing impunity for human rights violators. The NHRC also found that lack of access to property, housing and land hinders some from returning, and it recommended that the government formulate a policy to address the "long-term

<sup>6</sup> Nepal Peace Trust Fund, *Conflict-Induced Internal Displacement in Nepal: Four Monthly Progress Report—Fourth Report (16 May–15 September, 2008)*, 15 November 2008, p. 24, cited in IDMC, *Overview: Failed Implementation of IDP Policy Leaves Many Unassisted*, p. 5.

<sup>7</sup> Government of Nepal, Peace Fund Secretariat, Ministry of Peace and Reconstruction, *Nepal Peace Trust Fund Four-Monthly Progress Report: Fifth Report (16 Sep 2008 – 15 Jan 2009)*, 28 February 2009, cited in Nepal IDP Working Group, *Distant from Durable Solutions*, p. 36.

<sup>8</sup> IDMC, *Overview: Nepal*, pp. 1, 7; Nepal IDP Working Group, *Distant from Durable Solutions*, pp.10, 36-37.

<sup>9</sup> Nepal Peace Trust Fund, *Four Monthly Progress Report: Seventh Report (Mid-May–Mid-September 2009)*, 15 November 2009, cited in IDMC, *Overview: Nepal*, p. 6.

<sup>10</sup> Nepal IDP Working Group, *Distant from Durable Solutions*, pp. 27–29; Carter Center, *The Carter Center International Observation Mission in Nepal: First Interim Report*, 26 August 2009, p. 6.

<sup>11</sup> IDMC, *Overview: Nepal*, p. 8.

<sup>12</sup> Social Inclusion Research Fund, "Social Impact of Armed Conflict in Nepal: Cause and Impact," 6 May 2009, pp. 27–28 ([www.nrc.ch/8025708F004BC2FE/postSearch?createdocument](http://www.nrc.ch/8025708F004BC2FE/postSearch?createdocument)); Nepal IDP Working Group, *Distant from Durable Solutions*, pp. 23 and 28.

rehabilitation, reconstruction and socialization for the displaced people.”<sup>13</sup>

Efforts to promote reconciliation and to address the root causes of the conflict, including through establishing related commissions, have largely stalled. The government has, with assistance from the UN Office of the High Commissioner for Human Rights (OHCHR), sought to establish a truth and reconciliation commission, for which a provision exists in both the Interim Constitution of Nepal (2007) and the CPA.<sup>14</sup> However, the status of the draft bill establishing the commission was unclear at the time of writing and had received criticism from OHCHR and international human rights organizations for falling short of international standards.<sup>15</sup> The CPA also includes a provision for the establishment of a National Peace and Rehabilitation Commission, the work of which is to include “rehabilitation activities for

the victims of conflict and [the] displaced.”<sup>16</sup> However, despite the advocacy conducted by the National Human Rights Commission (NHRC) of Nepal to the government of Nepal to create such a commission, there [has been no] effort in order to set up this commission” due to the “lack of will power of the political parties,” according to the NHRC.<sup>17</sup>

In situations of displacement due to disasters, the government is responsible for providing immediate support to IDPs and accordingly coordinates with national and international organizations. It is reported that most IDPs uprooted by natural disasters—primarily floods and landslides—are able to return to their places of origin but that long-term livelihood programs and subsistence assistance are often lacking in return areas.<sup>18</sup>

In Uganda, where there were some 1.8 million IDPs at the peak of the conflict between the government and the rebel Lord’s Resistance Army (LRA), the signing of the Cessation of Hostilities Agreement in 2006 opened up meaningful possibilities for return, which gained significant momentum in 2008. In 2004, in the National Policy for Internally Displaced Persons, the government had already committed itself to securing durable solutions to displacement.<sup>19</sup>

Following the cessation of hostilities, the government conducted demining campaigns in return areas and introduced guidelines on the return process and camp phase-out operations.<sup>20</sup> The government’s Peace,

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<sup>13</sup> Under provisions of the CPA, the NHRC monitors rights including the right to life; the right to individual dignity and freedom of movement (which includes a subsection on IDPs); economic and social rights; the right to health; the right to property; the rights of women; and the rights of children. NHRC, *Three-Year Comprehensive Peace Accord (CPA), Summary Report 2006–2009*, pp. 36–37 ([www.nhrcnepal.org/publication/doc/reports/3-year\\_CPA.pdf](http://www.nhrcnepal.org/publication/doc/reports/3-year_CPA.pdf)).

<sup>14</sup> CPA, Article 5.2.5: “Both sides agree to constitute a High-level Truth and Reconciliation Commission through mutual agreement in order to investigate truth about those who have seriously violated human rights and those who were involved in crimes against humanity in course of the war and to create an environment for reconciliation in the society.” Article 33(S) of the Interim Constitution provides for the constitution of “a high-level Truth and Reconciliation Commission to investigate the truth about those persons involved in serious violations of human rights and crimes against humanity committed during the course of conflict, and to create an atmosphere of reconciliation in the society.”

<sup>15</sup> See further: Human Rights Watch, “Nepal: Send Human Rights Bills to Parliament,” 29 January 2009 ([/www.hrw.org/news/2009/01/29/nepal-send-human-rights-bills-parliament](http://www.hrw.org/news/2009/01/29/nepal-send-human-rights-bills-parliament)); OHCHR, “Public consultations on TRC Bill must not be cut short - OHCHR-Nepal,” 4 January 2001 ([http://reliefweb.int/sites/reliefweb.int/files/reliefweb\\_pdf/node-253744.pdf](http://reliefweb.int/sites/reliefweb.int/files/reliefweb_pdf/node-253744.pdf)).

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<sup>16</sup> CPA, Article 5.2.4.

<sup>17</sup> NHRC, *Three-Year Comprehensive Peace Accord (CPA), Summary Report 2006–2009*, pp. 26–27.

<sup>18</sup> Nepal Institute for Peace, *E-Bulletin on IDPs in Nepal*, June 2009, vol. 1, no. 1 ([www.idps-nepal.org/images/e-bulletin/e-bulletin-June.pdf](http://www.idps-nepal.org/images/e-bulletin/e-bulletin-June.pdf)).

<sup>19</sup> Government of Uganda, Office of the Prime Minister, Department of Disaster Preparedness and Refugees, *National Policy for Internally Displaced Persons*, August 2004, § 3.4

<sup>20</sup> For a discussion of the camp closure process, see further, Michelle Berg, “A Sort of Homecoming: Local Integration in Northern Uganda,” in *Resolving Internal Displacement: Prospects for Local Integration*, edited by Elizabeth Ferris,

Recovery and Development Plan for Northern Uganda (PRDP), which included as a strategic objective the facilitation of the voluntary return and resettlement of IDPs from camps, became operational in July 2008.<sup>21</sup> While the PRDP aims to address the root cause of marginalization in the North and therefore is important in providing durable solutions for IDPs, in reality, as of August 2009 few IDPs had benefited from the “re-settlement packages” referred to in the National Policy for Internally Displaced Persons.<sup>22</sup> However, the PRDP was expected to run until at least mid-2012, with a total budget of around \$600 million.<sup>23</sup>

The vast majority of IDPs—1.1 million of the more than 1.8 million displaced in the north—were displaced in Acholiland between 2002 and 2005, at the height of the conflict.<sup>24</sup> By July 2009, roughly 80 percent of the 1.8 million IDPs had returned to their homes or to transit sites near their places of origin; even so, a significant number of people remained displaced in camps.<sup>25</sup> As of

June 2010, only some 190,000, or 17 percent of the 1.1 million displaced in Acholiland, remained displaced. According to RSG Kälín in his report on his follow-up visit to Uganda in July 2009, returns were possible in large part due to the

restoration of freedom of movement for all IDPs and the significantly improved security situation in the war-affected Acholi subregion. The shift of responsibility to uphold the law and order from the Uganda People’s Defence Force (the Ugandan army) to civilian authorities and the redeployment of civilian police to Northern Uganda was an important contributing factor.<sup>26</sup>

While officially the government supported all three durable solutions, some IDPs indicated that their decision to return was not fully voluntary in light of the fact that the government’s plans for camp closure pressured them to return.<sup>27</sup> Research commissioned by the Brookings-LSE Project on Internal Displacement examining local integration in Northern Uganda found that “[s]ome Government officials have exhibited bias towards return as a preferred durable solution (subtly through messages, or overtly by issuing deadlines to leave camps). However, agencies and other officials have made efforts to clarify or counter such messaging, emphasising that return is voluntary.”<sup>28</sup>

The conditions in return areas, in particular insufficient basic services, land issues and inadequate economic opportunities—in addition to insecurity in some areas and the presence of unexploded ordnance—continue to preclude sustainable returns.<sup>29</sup> On a positive note, however,

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Brookings-LSE Project on Internal Displacement, June 2011 ([www.brookings.edu/events/2011/01\\_protracted\\_displacement.aspx](http://www.brookings.edu/events/2011/01_protracted_displacement.aspx)). See also UNHCR, “Ending Displacement: Report on Workshop on the Framework for Durable Solutions, Kitgum, 17–18 June 2008” August 2008 ([www.internal-displacement.org](http://www.internal-displacement.org)); Government of Uganda, Office of the Prime Minister, “Camp Phase Out Guidelines for all Districts with IDP Camps,” May 2008 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>21</sup> Government of Uganda, *Peace, Recovery, and Development Plan for Northern Uganda (PRDP), 2007–2010*, p. 63 ([www.prdp.org.ug](http://www.prdp.org.ug)).

<sup>22</sup> IDMC, *Uganda: Returns Outpace Recovery Planning: A Profile of the Internal Displacement Situation*, 19 August 2009 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>23</sup> Office for the Coordination of Humanitarian Affairs (OCHA), *Uganda Humanitarian Profile 2011*, p. 18. IDMC, *Overview: Uganda: Difficulties Continue for Returnees and Remaining IDPs as Development Phase Begins*, p. 6, 28 December 2010 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>24</sup> Government of Uganda, “Department of Disaster Preparedness and Refugees, Office of the Prime Minister,” ([www.opm.go.ug/departments.php?center\\_id=5](http://www.opm.go.ug/departments.php?center_id=5)).

<sup>25</sup> *Follow-Up Working Visit of the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons to Uganda, 13–17 July 2009: Memorandum on Key Findings and Recommendations*

([www.brookings.edu/projects/idp/rsg\\_info.aspx#Kalin](http://www.brookings.edu/projects/idp/rsg_info.aspx#Kalin)).

<sup>26</sup> Ibid.

<sup>27</sup> Oxfam “From Emergency to Recovery: Rescuing Northern Uganda’s Transition,” Briefing Paper 118 ([www.oxfam.org](http://www.oxfam.org)); UNHCR, “Ending Displacement: Report on Workshop on the Framework for Durable Solutions, Kitgum, 17–18 June 2008.”

<sup>28</sup> Michelle Berg, “A Sort of Homecoming: Local Integration in Northern Uganda,” p. 127.

<sup>29</sup> See further, Michelle Berg, “A Sort of Homecoming: Local

district governments in Acholiland and an interagency group have initiated a study examining the achievement of durable solutions in the region and related priorities for stakeholder action. Due to be published in December 2010, the study had yet to be published at the time of writing.

In the wake of the 2007–2008 post-election violence in Kenya, the government has undertaken efforts to establish conditions to enable IDPs to secure durable solutions.<sup>30</sup> These measures include political reforms and programs aiming to promote returnee reconciliation and reintegration, such as Operation Ujirani Mwema (Operation Good Neighborliness) and Operation Tujenge Pamoja (Operation Build Together). Many IDPs were forced to leave the camps after the government closed them, often through harsh measures that violated their basic human rights, and many did not obtain durable solutions to their displacement. Rather, they remain displaced, having moved to transit camps, urban areas and host communities. Some IDPs voluntarily returned after the signing on 28 February 2008 of the National Accord, which put an end to the violence.<sup>31</sup> Under the accord, the government has also been undertaking legal and institutional reforms pertaining to land issues, poverty, youth unemployment and national unity as well as accountability.

The Mitigation and Resettlement Committee was set up to resettle and rehabilitate IDPs and work with existing peace-building mechanisms to restore peace and normalcy.<sup>32</sup> In addition, the National Humanitarian Emergency Fund for Mitigation and Resettlement of Victims of 2007 Post-Election Violence was set up to meet the full costs of resettlement of IDPs, including reconstruction of basic housing, replacement of

household effects and rehabilitation of infrastructure.<sup>33</sup> In May 2008, the government launched Operation Rudi Nyumbani (Operation Return Home) to close all camps and facilitate the return of IDPs to pre-displacement areas. That was followed by the two other operations mentioned above to promote reconciliation, reintegration of returnees and reconstruction.<sup>34</sup>

In addition, the government of Kenya established the Truth, Justice and Reconciliation Commission and the National Cohesion and Integration Commission in July and September 2009 respectively, to promote healing and national cohesion. In March 2010 the International Criminal Court began its investigation into the Kenya situation after it became apparent that the government was unwilling to take the lead despite strong public demand for accountability.

While a substantial number of IDPs have unimpeded access to their farms, others have ended up in “transit sites” and urban areas while others have returned to camps; as one IDP told our researcher for the project, “facilitating IDPs to move out of camps only disperses them and makes them less visible; it doesn’t mean their problems are over.”<sup>35</sup>

Despite these positive actions, an unknown number of IDPs remain in at least twenty transit camps and camp-like self-help groups; often they are unable to reestablish their livelihoods or occupy the houses that have been rebuilt for them. The Kenyan government has been criticized for promoting return before peace-building and confidence-building measures were implemented. The government has also tended to focus on IDPs who own land and to attach durable solutions to land; there is no clear strategy for dealing with landless IDPs, such

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Integration in Northern Uganda,” pp. 126–152.

<sup>30</sup> See the case study on Kenya in chapter 2 of this volume.

<sup>31</sup> OCHA Kenya, *Kenya Humanitarian Update*, vol. 19, 15 May 2008 (reliefweb.int/node/266533).

<sup>32</sup> National Accord Implementation Committee, *National Reconciliation and Emergency Social and Economic Recovery Strategy*, March 2008, p. iv.; on file with Kenya case study author Prisca Kamungi.

<sup>33</sup> OCHA Kenya, “Frequently Asked Questions on IDPs,” 16 February 2009, p. 3, (ochaonline.un.org/OchaLinkClick.aspx?link=ocha&docId=1109376).

<sup>34</sup> See further the Kenya case study in chapter 2 of this volume.

<sup>35</sup> Interview with an IDP in a transit site in Mau Summit, November 2010. See the Kenya case study, chapter 2 in this volume.

as squatters and non-farmers, who are unable to return for various reasons. Moreover, the methods employed by the government to move IDPs out of the camps—including use of force, lack of information, disconnection of the water supply, the end of general food distribution and promises of compensation once IDPs were back on their farms—induced involuntary return and were inconsistent with human rights standards.<sup>36</sup>

The civil war in Sri Lanka displaced hundreds of thousands of people over the course of nearly thirty years. The Kumaratunga administration (1994–2005) expressed its commitment to establishing conditions for the return of IDPs through its Relief, Rehabilitation and Reconciliation Framework, which resulted—following the signing of a permanent cease-fire agreement with the Liberation Tigers of Tamil Eelam (LTTE) in February 2002—in the National Framework for Relief, Rehabilitation, and Reconciliation (2002) and the Joint Strategy to Meet the Immediate Needs of Returned Internally Displaced Persons (2002–03).

The Ministry of Resettlement and Disaster Relief Services (renamed as the Ministry of Resettlement in 2010), which managed camps and the provision of essential services, reported that it undertook several reconstruction projects to facilitate the return of IDPs to their places of origin.<sup>37</sup>

Following the end of war with the LTTE in May 2009, the government of Sri Lanka gave priority to the return of the estimated 280,000 individuals internally displaced between April 2008 and May 2009.<sup>38</sup> However, obstacles to sustainable return have included inadequate de-mining of return areas—including agricultural areas, which are critical for rebuilding livelihoods—as well as damaged or destroyed homes and public infrastructure. As a result, many IDPs were displaced to host families or to temporary transit camps for protracted periods of time, and those in poorly de-mined return areas remained out of reach of international assistance. In addition, there were over 220,000 “old” IDPs, displaced prior to April 2008, primarily because of conflict.<sup>39</sup>

A common theme evident from analysis of government response in Nepal, Uganda, Kenya and Sri Lanka is the priority given to IDP return and the limited support available for other durable solutions. In three of these four countries—Nepal, Uganda and Kenya—political settlements or agreements for the cessation of hostilities brought an end to the conflicts that had caused massive internal displacement, thereby opening up the possibility of return. Yet IDP returns have been slow, particularly because of inadequate conditions in areas of origin. The return of “new” IDPs in Sri Lanka constituted one of the three largest IDP return movements among all countries affected by conflict-induced internal displacement in 2010.<sup>40</sup>

<sup>36</sup> UNHCR, *Lessons Learned from UNHCR's Emergency Operations for IDPs in Kenya*, September 2008 ([www.unhcr.org/publ/RESEARCH/48e5d90d2.pdf](http://www.unhcr.org/publ/RESEARCH/48e5d90d2.pdf)); Kenya Human Rights Commission, *Tale of Force, Lies and Threats: Operation Rudi Nyumbani in Perspective* (Nairobi: 2008). See also KHRC Briefing Paper, “Operation Rudi Nyumbani Wapi (Return Where?): Formulating Durable Solutions to the IDP Situation in Kenya,” June 2008; “Corruption in Operation Rudi Nyumbani,” *The Standard*, September 1, 2008.

<sup>37</sup> Ministry of Resettlement and Disaster Services, “Provision for Infrastructure Development” [no date] ([www.resettlementmin.gov.lk/projects-funds-resettlement.html](http://www.resettlementmin.gov.lk/projects-funds-resettlement.html)).

<sup>38</sup> See further the Sri Lanka case study in chapter 2 of this volume.

<sup>39</sup> As of December 2010. Internal Displacement Monitoring Center, *Sri Lanka: IDPs and Returnees Remain in Need of Protection and Assistance*, 14 January 2011, p. 20 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>40</sup> The largest return movements in 2010 were in Pakistan, Sri Lanka and the Philippines. IDMC, *Internal Displacement: Global Overview of Trends and Developments in 2010*, March 2011 p. 85 ([www.internal-displacement.org](http://www.internal-displacement.org)). IDMC, Sri Lanka; IDPs and returnees remain in need of protection and assistance, 14 January 2011 ([www.internal-displacement.org](http://www.internal-displacement.org)).

### **Countries in which the conflict or violence is ongoing**

In Afghanistan,<sup>41</sup> the government's approach to durable solutions has been to promote return; it has done little to advocate other durable solutions, such as local integration. In 2008, under a joint plan with the UN High Commissioner for Refugees (UNHCR), the government encouraged IDPs living in the three largest IDP camps to return to their home provinces. The plan received a poor response from IDPs, many of whom were unwilling to return due to insecurity, ethnic tensions and lack of economic opportunities in their places of origin.<sup>42</sup> In 2009, of a total of 135,000 IDPs living in "camp-like settlements," only 7,000 returned.<sup>43</sup> According to the Afghan Independent Human Rights Commission, "growing insecurity, homelessness, disputes over property, and lack of livelihood options are the factors obstructing the return of refugees and the reintegration of returnees and IDPs."<sup>44</sup> The lack of attention given to land disputes is especially notable because such disputes have been not only a consequence but also a core cause of conflict and displacement. In 2007, the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons stressed that land disputes and landlessness "remain a substantial cause of displacement and a substantial obstacle to return."<sup>45</sup> Moreover, impunity has not been checked: the Law on National Stability and Reconciliation, passed by Parliament in 2007, has been criticized as effectively barring Afghan authorities from

prosecuting alleged perpetrators of displacement in the absence of a complaint by a victim.<sup>46</sup>

With the conditions necessary for sustainable return lacking in many areas in Afghanistan, the reality is that many IDPs who chose to return were displaced once again. However, those who were displaced anew due to lack of basic services (as opposed to insecurity) have tended to be classified by the Afghan government as "economic migrants"; as a result, their ongoing humanitarian needs have been "easily dismissed by provincial authorities and largely ignored by relief agencies."<sup>47</sup> Similarly, the majority of refugee returnees and deported asylum seekers, most of whom have returned from Iran and Pakistan, have been displaced once again, largely because they were landless prior to displacement or because they found their land occupied on returning, often by members of another majority tribal or ethnic group.<sup>48</sup>

Given the continuing conflict in the Central African Republic, efforts to find durable solutions for IDPs there also have been difficult. In June 2008, the government and all armed insurgent groups signed the Libreville Comprehensive Peace Agreement, which required the government to pass a general amnesty law and to undertake the demobilization, disarmament and reintegration

<sup>41</sup> See further the Afghanistan case study in chapter 2 of this volume.

<sup>42</sup> IRIN, "IDPs Reluctant to Return Home," 28 April 2008 ([www.irinnews.org/Report.aspx?ReportId=77957](http://www.irinnews.org/Report.aspx?ReportId=77957)).

<sup>43</sup> IDMC, *Internal Displacement: Global Overview of Trends and Developments in 2009*, May 2010, p. 76 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>44</sup> Afghanistan Independent Human Rights Commission (AIHRC), *Report on the Situation of Economic and Social Rights in Afghanistan: IV, Qaws 1388* (November/December 2009), December 2009 ([www.aihrc.org.af](http://www.aihrc.org.af)).

<sup>45</sup> OHCHR, "UN Expert Concerned about Growing Problem of Internal Displacement in Afghanistan," 20 August 2007 ([www.brookings.edu/projects/idp/RSG-Press-Releases/20070820\\_afghanistan.aspx](http://www.brookings.edu/projects/idp/RSG-Press-Releases/20070820_afghanistan.aspx)).

<sup>46</sup> See Human Rights Watch, *Afghanistan: Repeal Amnesty Law*, 10 March 2010 ([www.hrw.org](http://www.hrw.org)); Amin Tarzi, "Afghanistan: Amnesty Bill Places Karzai in a Dilemma," Radio Free Europe/Radio Liberty, 23 February 2007 ([www.rferl.org/content/article/1074897.html](http://www.rferl.org/content/article/1074897.html)).

<sup>47</sup> IRIN, "Afghanistan: Insecurity, Lack of Aid Prompt IDPs to Leave Camp," 21 June 2009 ([www.irinnews.org/Report.aspx?ReportId=84926](http://www.irinnews.org/Report.aspx?ReportId=84926)).

<sup>48</sup> AIHRC, *Economic and Social Rights in Afghanistan II, Kabul: Afghanistan Independent Human Rights Commission*, 1 August 2007 ([www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=471f4a5b0](http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=471f4a5b0)); Alec McEwen and Sharna Nolan, "Water Management, Livestock and the Opium Economy: Options for Land Registration," Working Paper Series (Kabul: Afghanistan Research and Evaluation Unit), February 2007 ([www.areas.org.af/Uploads/EditionPdfs/701E-Options%20for%20Land%20Registration-WP-print.pdf](http://www.areas.org.af/Uploads/EditionPdfs/701E-Options%20for%20Land%20Registration-WP-print.pdf)).

of rebel groups.<sup>49</sup> In reality, however, conflict is ongoing, as is extensive banditry by armed elements, causing continuing displacement and impeding durable solutions.<sup>50</sup> In addition, since the signing of the peace agreement, the LRA has infiltrated the southeast part of the country, where the state has little presence, and has launched regular attacks against the civilian population, causing the displacement of thousands.<sup>51</sup>

After the signing of the 2008 peace agreement, there was a marked decrease in the number of IDPs in the Central African Republic. At the end of 2007, there were approximately 200,000 IDPs in the country; by February 2009, the number had dropped to an estimated 106,000.<sup>52</sup> As of December 2009, over 73,000 IDPs had returned to their villages of origin. Many others, however, were unable to find durable solutions, and many areas experienced an increase in violence that caused several waves of renewed displacement.<sup>53</sup> Further, the voluntary nature of return has been questioned in light of reports that “rebel groups and government forces have forced villagers to return to destroyed and looted homes in order to extract taxes from them.”<sup>54</sup>

The main obstacles to return include insecurity, lack of basic services and poor infrastructure in areas of return.<sup>55</sup> During his third visit to the Central African

Republic in July 2010, RSG Kälin noted that in terms of the conflict in the north, “the humanitarian situation has stabilized compared to 2007 . . . and there has been a substantial number of returns that need to be supported.” However, those who had not returned “still face a humanitarian crisis” and “are exposed to insecurity caused, notably, by banditry.”<sup>56</sup>

In Colombia, displacement has been protracted for the majority of IDPs for years. While active conflict continues in several parts of the country, causing new displacements, in other parts of the country the conflict appears to have subsided. At the time of writing, no peace process was under way and durable solutions remained elusive for most of the country’s IDPs.

At least in terms of the national legal and policy framework, the Colombian government’s commitment to supporting durable solutions is unequivocal. Law 387 (1997) and the National Plan for Comprehensive Assistance to the Population Displaced by Violence (1998) affirm that registered IDPs have the right to voluntary return or resettlement, although there is an expressed preference for return, and set out the responsibilities of the government to assist and protect returnees.<sup>57</sup> In 2009, the government adopted the Protocol for IDP Returns, which, as the title indicates, makes clear the government’s preference among solutions to displacement.<sup>58</sup>

<sup>49</sup> IDMC, *Central African Republic: New Displacement Due to Ongoing Conflict and Banditry*, December 2009 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>50</sup> Ibid.

<sup>51</sup> OCHA, *République Centrafricaine: Activités de l’Armée de Résistance du Seigneur (LRA) (1 janvier 2010–16 mars 2011)* (<http://reliefweb.int/node/394703>).

<sup>52</sup> IDMC, *Central African Republic: New Displacement Due to Ongoing Conflict and Banditry*.

<sup>53</sup> UN Security Council, *Report of the Secretary-General on the Situation in the CAR and on the Activities of the United Nations Peacebuilding Support Office in that Country*, 8 December 2009 ([www.unhcr.org/refworld/docid/4b279b142.html](http://www.unhcr.org/refworld/docid/4b279b142.html)).

<sup>54</sup> IRIN, “Under the Gun: Violence and Displacement in CAR,” 28 May 2009 ([www.irinnews.org/Report.aspx?ReportId=84566](http://www.irinnews.org/Report.aspx?ReportId=84566)).

<sup>55</sup> UN Human Rights Council, *Report of the Secretary*

*General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to the Central African Republic*, 18 April 2008, A/HRC/8/6/Add.1 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)).

<sup>56</sup> OHCHR, “Protect the Displaced and Help Them Return to Build Peace in Central Africa,” media statement by RSG Walter Kälin, 16 July 2010 ([www.brookings.edu/projects/idp/rsg\\_info.aspx](http://www.brookings.edu/projects/idp/rsg_info.aspx)).

<sup>57</sup> Government of Colombia, Law 387 of 1997; Decree 173 of 1998 adopting the National Plan for Comprehensive Assistance to the Population Displaced by Violence (1998), available at Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Colombia” ([www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx)).

<sup>58</sup> Acción Social, *Protocolo de Retornos* ([www.internal-displacement.org](http://www.internal-displacement.org)).



Yet, while the government favors return, the vast majority of IDPs do not intend to return to their places of origin. To date, the Follow-Up Commission on the Public Policy of Forced Displacement—mandated by the Constitutional Court to monitor the government’s compliance with Decision T-025—has conducted three statistically rigorous “national verification surveys,” which include a host of sociodemographic and other data pertaining to IDPs.<sup>59</sup> According to the Follow-Up Commission’s third survey, conducted in 2010 (see figure 1-4 below), the majority of registered and of nonregistered IDPs indicated that they did not intend to return.<sup>60</sup> Most IDPs on the outskirts of Cartagena

surveyed by a researcher in 2007 and 2008 said that they would never return for fear of retribution by nonstate armed actors, even if those actors were demobilized, because the actors view fleeing as tantamount to IDPs’ “involvement” with the enemy and guilt.<sup>61</sup> By contrast much of the national legal and policy framework in place is geared toward or based on consideration of return, not alternative solutions.

<sup>59</sup> The civil society follow-up commission is a forum composed of representatives of IDP organizations, NGOs, indigenous peoples, Afro-Colombian groups and academia.

<sup>60</sup> See further, Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado, *III Encuesta Nacional*

*de Verificación de los Derechos de la Población Desplazada* [Third National Verification Survey on the Displaced Population], July-August 2010, published December 2010, p. 39. Available at Consultoría para los Derechos Humanos y el Desplazamiento (CODHES) “III Informe VCS-09 Dic 10” ([www.codhes.org/index.php?option=com\\_content&task=view&id=39&Itemid=52](http://www.codhes.org/index.php?option=com_content&task=view&id=39&Itemid=52)).

<sup>61</sup> Stine Finne Jakobsen, “How to Behave: Advice from IDPs,” *Forced Migration Review—Feature: Armed Non-State Actors and Displacement*, no. 37, March 2011, p. 24 ([www.fmreview.org/non-state.pdf](http://www.fmreview.org/non-state.pdf)).

**Figure 1-4. IDP families’ intention to return, stay or resettle, 2010 (percentage)**

Intention	Total	Registered	Unregistered
Return to municipality of origin	<b>5.8</b>	5.7	6.1
<i>Coefficient of variation</i>	5.2	5.8	12.6
Resettle in another municipality	<b>10.2</b>	10.4	9.4
<i>Coefficient of variation</i>	3.9	4.2	10.0
Resettle out of country	<b>2.0</b>	2.1	1.6
<i>Coefficient of variation</i>	9.1	9.7	25.3
Stay in this city	<b>72.7</b>	72.4	74.0
<i>Coefficient of variation</i>	0.8	0.9	1.9
Not specified	<b>9.3</b>	9.4	9.0
<i>Coefficient of variation</i>	4.1	4.4	10.3

Source: Adapted from Cuadro 4 [Table 4], p. 39, in Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado, *III Encuesta Nacional de Verificación de los Derechos de la Población Desplazada* [Third National Verification Survey on the Displaced Population], July-August 2010, published December 2010. Available at Consultoría para los Derechos Humanos y el Desplazamiento (CODHES) “III Informe VCS-09 Dic 10” ([www.codhes.org/index.php?option=com\\_content&task=view&id=39&Itemid=52](http://www.codhes.org/index.php?option=com_content&task=view&id=39&Itemid=52)).

In 2009 the government continued to favor returns through an incentive program offering opportunities for housing and livelihoods to returnees; while a few thousand IDPs did return, the number amounted to less than 1 percent of the total IDP population.<sup>62</sup> Moreover, where returns do occur, questions arise regarding the adequacy of municipalities' capacity and resources to assist returnees.<sup>63</sup> Municipalities facing an influx of returnees often lack financial resources due to the impact of the conflict on the community.

In 1999, during his second mission to Colombia, RSG Francis Deng had already noted that there was an "overemphasis on humanitarian assistance with scant attention paid to the prevention of displacement and support for durable solutions."<sup>64</sup> Ten years later, in 2009, the Constitutional Court called on the government to do more to support durable solutions to displacement, including by supporting solutions besides return.<sup>65</sup> The court also ordered the government to measure and report on the impact of its work on durable solutions.

<sup>62</sup> IDMC, *Internal Displacement Global Overview of Trends and Developments in 2009*, May 2010, p. 51, ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>63</sup> See, for example, discussions with Colombian municipal authorities, including the mayor of San Carlos, to which some 5,000 IDPs returned in 2006–07: Brookings-Bern Project on Internal Displacement, *Protecting the Displaced in Colombia: The Role of Municipal Authorities—Summary Report*, Bogotá, Colombia, 14 November 2008, July 2009 ([www.brookings.edu/reports/2009/07\\_colombia.aspx](http://www.brookings.edu/reports/2009/07_colombia.aspx)).

<sup>64</sup> UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons Submitted in Accordance with Commission Resolution 1999/47—Addendum: Profiles in Displacement: Follow-Up Mission to Colombia*, E/CN.4/2000/83/Add.1, 11 January 2000, para. 53, p. 14 ([www.brookings.edu/projects/idp.aspx](http://www.brookings.edu/projects/idp.aspx)).

<sup>65</sup> Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado, *El Reto ante la Tragedia Humanitaria del Desplazamiento Forzado: Superar la Exclusión Social de la Población Desplazada*, Vol. 3, April 2009, available at Consultoría para los Derechos Humanos y el Desplazamiento (CODHES) Web site: [www.codhes.org/index.php?option=com\\_content&task=view&id=39&Itemid=52](http://www.codhes.org/index.php?option=com_content&task=view&id=39&Itemid=52).

Conflicts over land, which are at the root of the overall conflict, are a major impediment to achieving durable solutions for IDPs in Colombia. Most IDPs were subsistence farmers who never had formal land titles or never formally registered their land. Only registered IDPs are eligible to participate in the national IDP land registration program, and even in those cases, restitution of land has been slow and incomplete. However, in a positive development in May 2011, as discussed in Benchmark 6, the government adopted a landmark land restitution law providing for the return of 500,000 hectares of land each year until 2014 to victims of the conflict, especially to those persons forcibly displaced from their lands. Between August 2010 and May 2011, the government reportedly had already returned 984,000 hectares (2.4 million acres) of land to displaced peasants and over 100,000 hectares (247,000 acres) to indigenous communities.<sup>66</sup> In addition, the government's Institute for Rural Development (Incoder) announced in July 2010 that it would restore titles to some 420,000 acres of land to over 3,600 Afro-Colombian families in Chocó department, near Quibdó. At the time of writing, the restitution had been delayed seven times, to June 2011.<sup>67</sup>

But restitution of land does not guarantee returnees' security and may even endanger people given that land disputes and seizures remain a driving force of the conflict. To give just one example, in March 2011, hours after 63,000 acres of land in the Chocó department were returned to Afro-Colombian communities through

<sup>66</sup> *El Espectador*, "De agosto a mayo de este año: Se han formalizado, restituido y adjudicado más de 313 mil hectáreas: gobierno," 15 May 2011 (<http://elespectador.com/economia/articulo-269960-se-han-formalizado-restituido-y-adjudicado-mas-de-313-mil-hectar>), cited in Ben Hockman, "Government Orders to Speed up Land Restitution," *Colombia Reports*, 16 May 2011 (<http://colombiareports.com/colombia-news/news/16283-government-orders-to-speed-up-land-restitution.html>).

<sup>67</sup> Marguerite Cauley, "Govt to Return Lands to 3,650 Afro-Colombian Families," *Colombia Reports*, 18 April 2011 (<http://colombiareports.com/colombia-news/news/15676-govt-to-return-lands-to-3650-afro-colombian-families.html>).

a formal presentation by the Minister of the Interior and the Minister of Agriculture, alleged members of paramilitary groups raided the land and set ablaze approximately twelve acres of corn in Curvaradó.<sup>68</sup> In its appeals to the government to provide for these communities' security as ordered by the Constitutional Court, the Afro-Colombian Solidarity Network reports that such incidents have been recurring in these areas. The network was especially concerned about intensified security threats to community members after the government had withdrawn members of the National Army's 17th Brigade in Curvaradó.<sup>69</sup>

Aiming to prevent further victimization of returnees as a result of insecurity and violence, the government established a new security body, the Integrated Center of Intelligence for Land Restitution (Centro Integrado de Inteligencia para la Restitución de Tierras, also known as CI2-RT) within the Ministry of Defense. Additional participants include the Office of the Vice President, the Ministry of Justice and Interior, the Department of Administrative Security (DAS), Social Action (Acción Social), Incoder, and organizations representing victims of violence.<sup>70</sup> The government sees this body as playing an important role in offering preventative protection so

that civilians do not find themselves in such danger that they need to flee in the first place.<sup>71</sup>

Internal displacement has occurred in various waves in Iraq, in addition to outbound refugee flows, as is the case with the other countries examined in this volume. Indeed, roughly one in eleven Iraqis was internally displaced as of 2010, for an estimated total of 2.8 million IDPs in the country. Just over 1 million IDPs were displaced before 2003 due to forced population movements under the former Ba'ath government; around 190,000 were displaced by armed conflict following the March 2003 invasion of Iraq; and 1.6 million were displaced by sectarian conflict triggered by the bombing of the Al-Askari shrine in Samarra in February 2006.<sup>72</sup> There has been little displacement since 2009 except in the disputed northern areas. The government has given some support to establishing conditions to enable durable solutions for IDPs displaced since 2006, but the vast majority of those IDPs have yet to realize such a solution. Those displaced before 2003 have not been registered; as IDMC notes, "there is no clear assessment of the situation of this group of IDPs, which has been

<sup>68</sup> Tom Hayden, "Gangs Torch Land Returned to Afro-Colombians," *Colombia Reports*, 21 March 2011 (<http://colombiareports.com/colombia-news/news/15037-gangs-torch-land-returned-to-afro-colombians.html>).

<sup>69</sup> Constitutional Court, Judgment No. 005 (2009). Afro-Colombian Solidarity Network, "Open Letter to President Santos on Partial Withdrawal of Security Forces in Curvaradó," 14 April 2011 ([www.ushrnetwork.org/content/pressrelease/open-letter-president-santos-partial-withdrawal-security-forces-curvarad%C3%B3](http://www.ushrnetwork.org/content/pressrelease/open-letter-president-santos-partial-withdrawal-security-forces-curvarad%C3%B3)).

<sup>70</sup> Government of Colombia, Ministry of Defense, "Gobierno Nacional lanza plan de seguridad para beneficiarios de la restitución de tierras," 16 March 2011 ([www.mindefensa.gov.co/irj/go/km/docs/documents/News/NoticiaGrandeMDN/50803ba7-0532-2e10-fe8a-b0d4d44a3f0a.xml](http://www.mindefensa.gov.co/irj/go/km/docs/documents/News/NoticiaGrandeMDN/50803ba7-0532-2e10-fe8a-b0d4d44a3f0a.xml)); Centro Integrado de Inteligencia para la Restitución de Tierras, *Revista Gobierno*, [no date] ([www.revistagobierno.com/portal/index.php?option=com\\_content&view=article&id=4648:centro-integrado-de-inteligencia-para-la-restitucion-de-tierras&catid=6:ministerios&Itemid=23](http://www.revistagobierno.com/portal/index.php?option=com_content&view=article&id=4648:centro-integrado-de-inteligencia-para-la-restitucion-de-tierras&catid=6:ministerios&Itemid=23)).

<sup>71</sup> Government of Colombia, Ministry of Defense, "Gobierno Nacional lanza plan de seguridad para beneficiarios de la restitución de tierras."

<sup>72</sup> UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Visit to Iraq*, A/HRC/16/43/Add.1, 16 February 2011 ([www.brookings.edu/projects/idp/rsg\\_info.aspx](http://www.brookings.edu/projects/idp/rsg_info.aspx)). According to figures from the Kurdistan Regional Government for the three northern governorates and the Iraqi Ministry of Displacement and Migration for the fifteen central and southern governorates, more than 1,680,000 IDPs (270,000 families) have been displaced throughout Iraq since 2006; see IOM, *Review of Displacement and Return in Iraq*, February 2011 ([www.iomiraq.net](http://www.iomiraq.net)). According to UNHCR, however, there are 1.258 million IDPs in Iraq; UNHCR, *UNHCR Iraq Operation Monthly Statistical Update on Return: July 2011* ([www.iauiraq.org/documents/1497/Return%20Update%20IRAQ%20JUL%202011.pdf](http://www.iauiraq.org/documents/1497/Return%20Update%20IRAQ%20JUL%202011.pdf)). See also IDMC, *Iraq: Little New Displacement but around 2.8 Million Iraqis Remain Internally Displaced: A Profile of The Internal Displacement Situation*, 4 March 2010, pp. 8–9 ([www.internal-displacement.org](http://www.internal-displacement.org)).

largely unaddressed by the Iraqi government as well as the international humanitarian community.<sup>73</sup> However, the government has taken some measures to adjudicate property disputes for this group of IDPs, as discussed below.

As have other governments, the Iraqi government has given priority to return over other solutions (see below). However, at the time of writing, only a few hundred thousand post-2006 IDPs had returned, and return was unlikely for many of the remaining IDPs, given threats to their lives; insecurity; damage to, destruction of, or lack of access to housing; poor access to water and basic services; and limited economic opportunities. Indeed, while obstacles to return have varied by governorate and over time, a combination of those factors has precluded return or has resulted in further displacement of returnees. IDPs who have returned have tended to do so in areas where security has improved and where they can find employment.<sup>74</sup>

With respect to factors inhibiting return, according to UNHCR in December 2009, nearly 36 percent of IDPs reported that their property had been damaged or destroyed; 18 percent reported that it was being occupied illegally by militias, local residents or other IDPs; and many feared harassment should they attempt to reclaim their property. Fifteen percent of returned IDPs and over half of returned refugees (56 percent) were unable

to access their property.<sup>75</sup> According to an April 2010 report of the International Organization for Migration (IOM), the 375,000 IDPs who had returned attributed their decision to do so to a combination of improved security in the area of return, onerous conditions in displacement, and government and other assistance.<sup>76</sup> Further, UNHCR has reported that returnees were mainly Shi'a and Sunni Arabs who tended to return to areas under the control of their communities, with approximately 58 percent of IDP returns having occurred within the same governorate, principally in Baghdad and Diyala.<sup>77</sup> By the end of 2009, only 40 percent of returnees surveyed by IOM had registered and applied for a government grant and only 30 percent of applicants had received one.

These conditions help to explain the fact that since 2006, according to IOM's regular surveys, the proportion of IDP families whose preferred option was local integration increased from 25 percent in 2006 to 44 percent as of February 2011 across Iraq, with an increase in Babylon governorate from 77 percent to 87 percent over the same period. The corresponding percentages remained high in Basrah (77 percent), Najaf (70 percent), and Qadissiya (67 percent) governorates. The percentage of IOM-surveyed IDP families desiring resettlement to a third location decreased while the number of families wishing to return to their place of origin increased in 2008, from 45 percent to 60 percent, but decreased to 35 percent in October 2010.<sup>78</sup>

With respect to the pre-2003 IDPs, the government has supported positive steps to realize durable solutions, including establishment of the Commission for

<sup>73</sup> IDMC, *Iraq: Overview: Political Wrangling Leaves around 2.8 Million Displaced Iraqis with No Durable Solutions in Sight*, 2010, p. 7 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>74</sup> IOM, *IOM Emergency Needs Assessment: Four Years of Post-Samarra Displacement in Iraq*, 13 April 2010 (<http://reliefweb.int/node/351148>). According to IOM in its assessment of post-2006 IDPs, «Families who choose to return to their place of origin base their decision on several factors, ranging from improved security in their place of origin to the harsh conditions they face during displacement. It is usually a combination of factors, but IOM field monitors find that families are generally more likely to return to their homes if the security situation has improved and they are able to secure employment.» See IOM, *Review of Displacement and Return in Iraq*, February 2011.

<sup>75</sup> UNHCR, «UNHCR Reiterates Concern about Involuntary Returns to Iraq Amid Violence», 11 December 2009 ([www.unhcr.org/4b222efe9.html](http://www.unhcr.org/4b222efe9.html)).

<sup>76</sup> IOM, *IOM Emergency Needs Assessment: Four Years of Post-Samarra Displacement in Iraq*, 13 April 2010.

<sup>77</sup> UNHCR, *UNHCR Iraq Operation Monthly Statistical Update on Return: August 2010* ([www.iauiraq.org](http://www.iauiraq.org)).

<sup>78</sup> IOM, *IOM Iraq Report: Five Years of Post-Samarra Displacement*, February 2011, p. 18 (<http://reliefweb.int/node/389935>).

the Resolution of Real Property Disputes (CRRPD) in 2006 to settle property disputes arising from displacement caused by the Ba'ath regime's policies between July 1968 and April 2003. By October 2009, it had received over 156,000 claims and ruled on almost 43,000; therefore nearly three of four land and property disputes still awaited resolution.<sup>79</sup> Property destruction is not addressed by the CRRPD, meaning that groups such as Marsh Arabs and Kurdish communities whose entire villages were destroyed are not included in the scope of the commission. In early 2010, legislation was passed to replace the CRRPD with the Real Property Claims Commission, which is to include a compensation program for movable and immovable property expropriated or damaged under the former government.

To encourage returns, in 2008 the government of Iraq passed Prime Ministerial Order 101 and the accompanying Council of Ministers Decree 262, aiming at private property restitution. Under the decree, the Ministry of Displacement and Migration provides a stipend of 1,000,000 Iraqi dinars (\$850) for eligible IDP and refugee returnees and a rental compensation package (for a period of six months) to registered IDPs who have been residing as secondary occupants; it also assists or refers returnees to ministries for assistance through its return assistance centers.<sup>80</sup> However, these programs have been inadequately implemented. In July 2009, the Iraqi government initiated its Diyala Return and Integration Initiative with the United Nations in accordance with Prime Ministerial Order 54 to establish conditions for durable return for over 95,000 displaced

Iraqis displaced between 2006 and 2007; the initiative included support for nearly 17,000 jobs as of February 2010.<sup>81</sup> According to RSG Walter Kälin, the initiative is “a positive model for returns and reintegration” and is intended to be replicated in three key areas of return in Baghdad as well as in Salaheddin governorate. The Diyala program was significant in that it mobilized the efforts of development actors to create economic incentives for providing jobs for returnees, but the program seems to have stalled. Gaps in the program point to the need to address inadequate returnee assistance, to enhance coordination structures and improve the capacity of governorate institutions, as Kälin has advocated. In addition, Kälin has called for solutions for allocating land for IDPs who will not return.<sup>82</sup> With a housing shortage of approximately 2 million units for Iraq's population as a whole, housing is clearly not an issue for IDPs only. While the government has developed, in partnership with UN HABITAT, a national housing policy, the policy falls short of addressing internal displacement. Hence UN HABITAT has developed a national shelter strategy with the government.<sup>83</sup>

The government of the Democratic Republic of the Congo (DRC) has largely fallen short of its responsibility to establish the conditions necessary for IDPs to

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<sup>79</sup> For a more in-depth discussion of the CRRPD, see Peter van der Auweraert, “Land and Property Issues in Iraq: Present Challenges and Future Solutions—Discussion Points,” pp. 27–37, in *Resolving Iraqi Displacement: Humanitarian and Development Perspectives, 18-19 November 2009, Doha, Qatar*, edited by Elizabeth Ferris (Washington, D.C.: Brookings-Bern Project on Internal Displacement, April 2010 ([www.brookings.edu/reports/2009/1119\\_iraqi\\_displacement.aspx](http://www.brookings.edu/reports/2009/1119_iraqi_displacement.aspx))).

<sup>80</sup> Eligible refugees must have spent eight to twelve months outside the country. IOM, *Iraq Displacement and Return Mid-Year Review: 2008* ([www.iomiraq.net/iomdmyear.html](http://www.iomiraq.net/iomdmyear.html)).

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<sup>81</sup> Order 101 was extended to Diyala through Prime Ministerial Order 54, which also stipulates that return is to be conducted with the support of international agencies. UNHCR Iraq: *UNHCR Monthly Highlights, August 2009*, 31 August 2009 (<http://reliefweb.int/node/326601>).

<sup>82</sup> UN Human Rights Council, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Visit to Iraq*, February 2011. Randa Jamal, “Iraq: The Diyala Initiative: Facilitate the Reintegration of Returnees,” UNAMI (<http://reliefweb.int/node/346131>).

<sup>83</sup> UNAMI, “Press Statement: Iraq Ministry of Construction and Housing delivers Iraq's National Housing Policy in cooperation with UN-HABITAT,” 7 November, 2010 ([www.uniraq.org/newsroom/getarticle.asp?ArticleID=1448](http://www.uniraq.org/newsroom/getarticle.asp?ArticleID=1448)); Peter Van der Auweraert, “Displacement and National Institutions: Reflections on the Iraqi Experience,” Middle East Institute, June 2011 ([www.refugeecooperation.org](http://www.refugeecooperation.org)).

secure a durable solution to their displacement, but it has taken some steps to stabilize conflict areas and work toward the return of the displaced.

Most IDPs in the DRC have been displaced multiple times, and aid workers have difficulty providing assistance in many instances because of insecurity and logistical constraints. In his 2008 mission report, RSG Walter Kälin called attention to the fact that houses had been destroyed; that infrastructure, including schools, was lacking in the areas of return; and that female-headed households were especially vulnerable. Many of the women he met during his mission, particularly returning IDPs, said they were vulnerable to acts of violence, including rape, in return areas.<sup>84</sup> Returns have provoked land disputes among various ethnic groups and between returnees and those occupying their land, who in many instances have also been displaced.<sup>85</sup> However, in spite of the difficulties and the fact that returnees often experience renewed displacement, large numbers of IDPs have returned to their communities. For example, in 2009, 1 million returnees were reported, half of them in North Kivu. That constituted the highest number of returns in Africa for that year and the second-highest number in the world, after returns in Pakistan.<sup>86</sup>

Notably, in June 2009 the prime minister of the Democratic Republic of the Congo launched the Stabilization and Reconstruction Plan for War-Affected Areas (STAREC), funded and supported by the United Nations, for the stabilization and rebuilding of former

conflict zones in the east of the country, including through the return, reintegration and recovery of IDPs and refugees.<sup>87</sup> The priorities outlined in STAREC fall into three main categories: security and restoration of state authority; humanitarian and social assistance; and economic recovery.<sup>88</sup>

However, according to the prime minister in 2009, STAREC had been stymied “due to a number of constraints, such as the armed confrontations between the National Congress for the Defence of the People (CNDP) and the Armed Forces of the Democratic Republic of Congo (FARDC).”<sup>89</sup> Indeed, a range of triggers of conflict and violence—such as social and economic marginalization, inter-ethnic tensions and land and property disputes—have also impeded progress on IDP and refugee returns. Funding has also been identified as a major limitation to STAREC’s ability to provide durable solutions for IDPs.<sup>90</sup>

The Truth and Reconciliation Commission of the DRC, created in 2002 by the Comprehensive Peace Agreement, was constitutionalized in the Transitional Constitution (2003) as a means to achieve national unity, including through the provision of compensation to victims. However, the commission’s work has been limited; reportedly it is unable to conduct investigations

<sup>84</sup> UN Human Rights Council, *Report submitted by the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum—Mission to the Democratic Republic of the Congo*, A/HRC/8/6/Add.3, 16 May 2008, para. 60 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)).

<sup>85</sup> International Crisis Group, *Congo: Four Priorities for Sustainable Peace in Ituri*, Crisis Group Africa Report No. 140, 13 May 2008 pp. 9–10 ([www.crisisgroup.org](http://www.crisisgroup.org)).

<sup>86</sup> IDMC, *Internal Displacement: Global Overview of Trends and Developments in 2009*, p. 17; IDMC, *Democratic Republic of the Congo: Over 2.1 Million IDPs in the Context of Deteriorating Humanitarian Conditions, February 2010*, p. 4 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>87</sup> GoDRC, *Programme de Stabilisation et de Reconstruction des Zones Sortant des Conflits Armés: STAREC*, June 2009; UNDP, “Trust Fund Factsheet: DRC Stabilization and Recovery” (<http://mdtf.undp.org/factsheet/fund/CRF00>); *Stabilization and Recovery Funding Facility for the Democratic Republic of Congo: Terms of Reference*, final version, 5 November 2009 (<http://monusco.unmissions.org/LinkClick.aspx?fileticket=E8IWO6fjJIY%3D&tabid=4516&mid=4889>).

<sup>88</sup> See UN Peacebuilding Fund, “Priority Plan for the Democratic Republic of Congo,” (<http://monusco.unmissions.org/LinkClick.aspx?fileticket=YWXss5SIqH8=&tabid=4521&mid=4888>).

<sup>89</sup> MONUC, “UN Supports Revised Stabilization and Reconstruction Plan for Eastern DRC,” 24 February 2009 (<http://reliefweb.int/node/298860>).

<sup>90</sup> UN Peacebuilding Fund, “Priority Plan for the Democratic Republic of Congo.”

of human rights violations and focuses instead on conflict-mediation activities.<sup>91</sup>

The government of Myanmar does not recognize the existence of conflict-induced IDPs. The talks between the Karen National Union and the military regime, then called the State Peace and Development Council, in December 2003 and January 2004—during which territorial demarcations and the return of internally displaced Karen were reportedly discussed<sup>92</sup>—led to a provisional cease-fire followed by some small-scale, spontaneous returns of IDPs.<sup>93</sup> However, for the vast majority of conflict-induced IDPs, there is little possibility and no support for durable solutions.

Regarding the IDPs displaced by Cyclone Nargis in 2008, the Post-Nargis Recovery and Preparedness Plan includes a subsection on return, reintegration and resettlement, which stipulates that families displaced by Cyclone Nargis will be given assistance to “either return to their native villages or to integrate fully at their new location.” Assistance for resettlement is reserved for special circumstances, but the plan does not specify what conditions would need to be met in order to qualify for resettlement assistance.<sup>94</sup> In practice, it is unclear what

assistance has been provided to the disaster-induced IDPs to secure a durable solution to their displacement. Obtaining such information has become all the more challenging since the government introduced in 2010 the practice of providing streamlined development assistance through the relevant line ministries rather than coordinating the channeling of all such funds through the Ministry of Social Welfare Relief and Resettlement.

Data on durable solutions for IDPs displaced by conflict in Pakistan are scarce, but it seems that government authorities have made only minimal efforts to establish conditions to enable IDPs to secure durable solutions. As in other countries, the government has given priority to return, despite the insecurity, lawlessness, physical destruction, and lack of basic services and economic opportunities in areas of origin.<sup>95</sup> Many observers have questioned whether the returns are truly voluntary and have raised concerns that the government gives military and political considerations priority over the rights and safety of IDPs.<sup>96</sup> Furthermore, the Pakistani army reportedly has prevented IDPs near the Line of Control dividing Pakistan- and India-administered Kashmir from attaining durable solutions.

In July 2009, the government declared victory over militant groups in the Swat Valley and formally announced that it would begin the IDP return process; accordingly, it signed a return policy framework with the UN. By August 2009, between 1.6 and 1.9 million of the 2.7 million IDPs from the Swat Valley and Buner District had returned, according to UNHCR.<sup>97</sup> However, according to

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<sup>91</sup> GoDRC, *Loi No. 04/018 du 30 Juillet 2004 portant organisation, attributions et fonctionnement de la Commission Vérité et Réconciliation* ([www.leganet.cd/Legislation/DroitPenal/Loi01.18.30.07.2004.CVR.htm](http://www.leganet.cd/Legislation/DroitPenal/Loi01.18.30.07.2004.CVR.htm)); Theodore Kasongo Kamwimbi, “The DRC Elections, Reconciliation, and Justice,” *Pambazuka News* ([www.ictj.org/en/news/coverage/article/986.html](http://www.ictj.org/en/news/coverage/article/986.html)); United States Institute for Peace (USIP), “Truth Commission: Democratic Republic of Congo,” Truth Commissions Digital Collection ([www.usip.org/resources/truth-commission-democratic-republic-congo](http://www.usip.org/resources/truth-commission-democratic-republic-congo)).

<sup>92</sup> C. Guinard, “KNU Cease-Fire Talks: Negotiating a Return to the ‘Legal Fold,’ and the Fate of Millions of Karens,” *Burma Issues Newsletter*, vol. 14, no. 3, March 2004 ([www.karen.org/news2/messages/142.html](http://www.karen.org/news2/messages/142.html)).

<sup>93</sup> Ashley South, “Burma: The Changing Nature of Displacement Crises,” Refugee Studies Center, University of Oxford, Working Paper No. 39, February 2007 ([www.rsc.ox.ac.uk/publications/working-papers](http://www.rsc.ox.ac.uk/publications/working-papers)).

<sup>94</sup> Tripartite Core Group, *Post-Nargis Recovery and Preparedness Plan*, December 2008 ([www.aseansec.org/CN-PONREPP.pdf](http://www.aseansec.org/CN-PONREPP.pdf)); citation from p. 59.

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<sup>95</sup> See for example, Amnesty International, “*As If Hell Fell On Me*”: *The Human Rights Crisis in Northwest Pakistan*, 10 June 2010 ([www.amnesty.org](http://www.amnesty.org)); IDMC, *Pakistan: Flooding Worsens Situation for People Displaced by Conflict in Northwest: A Profile of the Internal Displacement Situation*, 6 September, 2010 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>96</sup> See, for example, Overseas Development Institute, *A Clash of Principles? Humanitarian Action and the Search for Stability in Pakistan*, Humanitarian Policy Group, Policy Brief 36, September 2009 ([www.odi.org.uk](http://www.odi.org.uk)); Refugees International, *Pakistan: Protect People First*, October 2009 ([www.refugeesinternational.org](http://www.refugeesinternational.org)).

<sup>97</sup> UNHCR, *The End of the Road? A Review of UNHCR’s Role*

major international agencies assisting IDPs in Pakistan, those returns often were premature because there were ongoing hostilities in some return areas as well as unexploded ordnance and damaged infrastructure and public services.<sup>98</sup> Secondary displacement reportedly occurred in Swat District in October 2009 when the government failed to adequately ensure durable returns;<sup>99</sup> however, it has been difficult to obtain reliable information because access to affected areas by international relief agencies has been severely restricted.<sup>100</sup> According to a UN survey, by July 2010 those still internally displaced cited lack of security, damaged property and lack of employment opportunities as the main reasons that they did not want to return, with many preferring local integration instead.<sup>101</sup>

With respect to those displaced by the 2010 flooding, Qamar Zaman Kaira, the Minister for Information and Broadcasting, assured the National Assembly in February 2010 that “every registered IDP will be settled [in] his home. Disaster Need Assessment (DNA) has been completed and everybody will be paid compensation for damages.” The minister explained that registered IDPs would receive food rations, relief money and later 25,000 Pakistani rupees (Rs) (approximately \$288) per family for their return, in addition to the compensation that would be paid.<sup>102</sup> The compensation package

announced by the government in September 2010 was to comprise Rs 20,000 (approximately \$230) per flood-affected family plus another payment of Rs 100,000 (approximately \$1,150) for reconstruction of their homes. The government had already delayed one cash payment by September 2010 but Rs 20,000 had been disbursed to 1.4 million flood-affected families by March 2011 through an innovative practice: electronic prepaid debit cards called “Watan cards,” totalling nearly Rs 30 billion (\$234.5 million). This cash transfer program was based on two previous cash compensation schemes the government implemented in response to the 2005 South Asia earthquake and the conflict displacement in Pakistan in North West Frontier Province (officially renamed Khyber Pakhtunkwa province in April 2010) in 2009. Some of the issues in delays in Punjab province stemmed from the issues the provincial Punjab government reportedly faced in declaring too many villages as flood-affected, which eventually became undeclared as such, according to Pakistani press reports in October 2010; Punjab closed its Watan card registration centers on 15 December 2010. The World Bank announced at the end of March 2011 its financial support to the second phase of the compensation system, the disbursement of 4 Rs 40,000 (approximately \$460) to some 1.1 million most affected households, or 7.5 to 8.3 million people, for the reconstruction of homes using the Watan card scheme.<sup>103</sup> Meanwhile, as of July 2011, these millions of flood-affected have been left without durable solutions to their displacement.

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*in the Return and Reintegration of Internally Displaced Populations*, PDES/2010/09, July 2010, pp. 47–48 ([www.unhcr.org/4c4989e89.pdf](http://www.unhcr.org/4c4989e89.pdf)).

<sup>98</sup> Ibid., p. 47; “Pakistan Crisis ‘Far from Over’ as Some Displaced Return Home,” press release, International Rescue Committee, 17 July 2009 (<http://reliefweb.int/node/317400>).

<sup>99</sup> IDMC, *Pakistan: Millions of IDPs and Returnees Face Continuing Crisis: A Profile of the Internal Displacement Situation*, December 2009.

<sup>100</sup> Refugees International, *Pakistan: Protect People First*, October 2009.

<sup>101</sup> IRIN, “Pakistan: IDPs Reluctant to Return” ([www.irinnews.org/Report.aspx?ReportId=89796](http://www.irinnews.org/Report.aspx?ReportId=89796)).

<sup>102</sup> Government of Pakistan, “Pakistan: Government Committed to Rehabilitate Every Registered IDP: Kaira” (<http://reliefweb.int/node/344864>). US dollar equivalents were made using the exchange rate of PKR (Pakistani

rupee) to USD (US dollar) at 86.87 on 30 September 2010.

<sup>103</sup> Zeeshan Haider, “Pakistani floods survivors await help to rebuild,” Reuters, 23 September 2010 ([www.trust.org/alertnet/news/pakistani-floods-survivors-await-help-to-rebuild](http://www.trust.org/alertnet/news/pakistani-floods-survivors-await-help-to-rebuild)); Imran Mukhtar, “NADRA faces problems in distribution of Watan Cards,” 10 October 2010 ([www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/12-Oct-2010/NADRA-faces-problems-in-distribution-of-Watan-Cards](http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/12-Oct-2010/NADRA-faces-problems-in-distribution-of-Watan-Cards)); World Bank, “World Bank Supports Flood Affected Households in Pakistan with Cash Grants to Rebuild Lives,” Press release no. 2011/397/SAR, 29 March 2011 (<http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:22872509~menuPK:34463~pagePK:34370~piPK:34424~theSitePK:4607,00.html>).



The Watan scheme is a creative approach aiming to provide immediate relief to millions of affected individuals—a task which would surely pose a challenge for any government—but there are some areas for improvement. UNHCR’s evaluation of the Watan program in the floods response points to some serious protection issues that have arisen, including that not all flood-affected villages were included and “the process for identifying flood affected villages was not systematic or transparent,” but also that there was inequitable access to registration and assistance, particularly for women, children and female-headed households, and unaccompanied/separated minors and child-headed households were excluded from the WATAN scheme. In addition, not all registered families could access ATMs to retrieve the money, particularly in rural areas, and there were technical issues with the cards and insufficient funds in some participating banks.<sup>104</sup>

Sudan has topped the list of countries with the most IDPs since statistics on IDPs have been collected. Its two largest displacement situations are in Southern Sudan and Darfur. While a peace agreement has been in place in Southern Sudan since 2005, making it possible to work to find solutions to displacement, the conflict in Darfur is ongoing, notwithstanding several attempts to secure a comprehensive peace agreement with all of the parties to the conflict. In addition, significant displacements have occurred in other areas, including Abyei and South Kordofan. The progress made toward durable solutions varies across these different situations, although a common theme is that in all cases, considerable work remains to be done.

Finding durable solutions to displacement in South Sudan is especially challenging given the scale of displacement that occurred during the conflict between 1983 and 2005: 4 million IDPs and 500,000 refugees

(making Sudan the country with the largest IDP situation, even before Darfur). The conflict officially was brought to an end with the signing of the Comprehensive Peace Agreement in 2005. In accordance with the terms of the agreement, Southern Sudan held a referendum on independence in January 2011, which led to the independence of the country in July 2011. Over 320,000 Southern Sudanese returned from Sudan between October 2010 and early August 2011 according to the International Organization for Migration, which tracks returns.<sup>105</sup> In the years between the peace agreement and the independence of what is now the Republic of South Sudan, the government of the Republic of Sudan and the government of Southern Sudan largely failed to establish conditions enabling IDPs to secure a durable solution to displacement; nevertheless, both governments pushed for return. However, insecurity, lack of employment and economic development, lack of basic services and lack of access to land have impeded durable returns in South Sudan and adjacent areas.<sup>106</sup> The UN

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<sup>105</sup> See OCHA, *Sudan: Weekly Humanitarian Bulletin, 29 July – 4 August 2011* ([http://reliefweb.int/sites/reliefweb.int/files/resources/Full\\_Report\\_2039.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_2039.pdf)).

<sup>106</sup> See for example: IDMC, *Sudan: Durable Solutions Elusive As Southern IDPs Return and Darfur Remains Tense—A Profile of the Internal Displacement Situation* ([www.internal-displacement.org](http://www.internal-displacement.org)); Kenneth H. Bacon, “Helping to Rebuild South Sudan,” Testimony before the United States Commission on International Religious Freedom, 24 September 2008 ([www.refintl.org/policy/testimony](http://www.refintl.org/policy/testimony)); UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to the Sudan (3–13 October 2005)*, E/CN.4/2006/71/Add.6 (13 February 2006) ([ww.brookings.edu/projects/idp/rsg\\_info.aspx](http://www.brookings.edu/projects/idp/rsg_info.aspx)); Sara Pantuliano and others, *The Long Road Home: Opportunities and Obstacles to the Reintegration of IDPs and Refugees Returning to Southern Sudan and the Three Areas*, Synthesis Paper, Humanitarian Policy Group, Overseas Development Institute, September 2008 ([www.odi.org.uk](http://www.odi.org.uk)); See also Joel Charny, “Africa’s Forgotten Refugees and Returnees,” Statement to the Subcommittee on Africa and Global Health, Committee on Foreign Affairs, Refugees International, 20 June 2007 ([www.refugeesinternational.org](http://www.refugeesinternational.org)).

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<sup>104</sup> See UNHCR/Protection Working Group, *The WATAN Scheme for Flood Relief: Protection Highlights 2010 - 2011*, May 2011 ([http://floods2010.pakresponse.info/LinkClick.aspx?fileticket=\\_SpKC9jJCIY%3D&tabid=206&mid=1604](http://floods2010.pakresponse.info/LinkClick.aspx?fileticket=_SpKC9jJCIY%3D&tabid=206&mid=1604)).

Secretary-General has noted these and other serious obstacles to securing durable solutions in the South: “Local security and land distribution are among the most urgent issues, but continued efforts are also required to develop options for both rural and urban livelihoods, expanding local services, and promoting inter- and intra-community reconciliation.”<sup>107</sup> In the absence of those conditions and in the context of continued inter-ethnic violence, a number of returnees have been displaced again. According to an IOM report in 2009, “failed returns” include 10 percent of IDP returnees (an estimated 185,000 people) who were such secondarily displaced persons.<sup>108</sup>

Planned reintegration schemes that were under discussion in 2009 between the United Nations and the government of Southern Sudan to cover travel costs and school construction to assist 500,000 IDP returnees by 2011 were criticized as falling well short of establishing durable solutions.<sup>109</sup> It is unclear whether this plan is related to the \$25 million “emergency repatriation” program entitled “Come Home to Choose,” unveiled in mid-2010 by the humanitarian affairs and disaster management ministry of the government of Southern Sudan, under which 1.5 million Sudanese from the North would return to the South in time for the December 2010 referendum on secession from the North. The program had prompted concerns that the returns were politically motivated and would be neither voluntary nor durable, as aid organizations already had difficulty integrating existing returnees.<sup>110</sup>

With the independence of South Sudan in July 2011, national responsibility for securing durable solutions to displacement has shifted fully to the government of South Sudan. Given the scale of the displacement and the centrality of the issue to the conflict, securing durable solutions for the millions of IDPs and refugees from South Sudan surely will be among the greatest challenges faced by this young country as well as among the main criteria by which its new government will be judged.

In Darfur, conflict displaced 2.7 million people IDPs and 300,000 refugees from 2003-09 and displacement continues, with 268,000 new IDPs in 2010 and ongoing displacement in 2011, though some returns also have taken place. Various efforts to halt the violence and resolve the conflict have been attempted but, to date, have failed to secure a comprehensive and lasting peace agreement. In 2006, the Darfur Peace Agreement was brokered after consultations with various armed groups.<sup>111</sup> However, only one of the various nonstate armed groups in Darfur—the Sudan Liberation Movement—signed the agreement with the government, and in 2011, the group’s leader, Minni Minnawi, retracted his support for the deal entirely. In 2009, the African Union and United Nations restarted peace talks for Darfur, which were hosted by the government of Qatar. Together with the government of Sudan, all the nonstate armed groups had a standing invitation to join the talks, but only the Liberation and Justice Movement (a recently formed amalgam of several armed factions) and, only sporadically, the Justice and Equality Movement (JEM), a long-standing and militarily significant rebel group, participated in the talks. The return of refugees and

<sup>107</sup> UN Security Council, *Report of the Secretary-General on the Sudan*, S/2009/61, 30 January 2009, para. 47, p. 9 ([www.un.org/Docs/sc/sgrep09.htm](http://www.un.org/Docs/sc/sgrep09.htm)).

<sup>108</sup> IOM, *IOM Tracking of Returns Project: Total Returns to Southern Sudan and Southern Kordofan, Post CPA to December 2009*, March 2010, p. 9 ([www.iom.ch/jahia/.../docs/tracking\\_returns\\_annual\\_report\\_dec2009.pdf](http://www.iom.ch/jahia/.../docs/tracking_returns_annual_report_dec2009.pdf)).

<sup>109</sup> Refugees International, *South Sudan: Urgent Action Needed to Avert Collapse*, 26 March 2009 ([www.refugeesinternational.org](http://www.refugeesinternational.org)).

<sup>110</sup> Refugees International, “Statement by Refugees International on the Government of Southern Sudan’s Mass Repatriation Plans,” 27 August 2010 ([www.refugeesinternational.org](http://www.refugeesinternational.org)); Agence France-Presse, “South

Sudan Plans Return of 1.5 Million for Referendum,” 24 August 2010 ([www.nation.co.ke/News/africa/South%20Sudan%20plans%20return%20of%201.5%20million%20for%20referendum/-/1066/995754/-/dfd1qdz/-/](http://www.nation.co.ke/News/africa/South%20Sudan%20plans%20return%20of%201.5%20million%20for%20referendum/-/1066/995754/-/dfd1qdz/-/)); Hannah Entwisle, *The End of the Road? A Review of UNHCR’s Role in the Return and Reintegration of Internally Displaced Populations*, UNHCR, Evaluation Reports, 1 July 2010 ([www.unhcr.org/4c4989e89.html](http://www.unhcr.org/4c4989e89.html)).

<sup>111</sup> See the full text of the peace agreements at UNDP Sudan ([www.sd.undp.org/SudanPanda.htm](http://www.sd.undp.org/SudanPanda.htm)).

IDPs, including compensation for losses suffered as a result of displacement, was among the five priority issues of the peace process (the others were security arrangements, power sharing, wealth sharing, and justice and reconciliation). The Doha Process concluded in July 2011 with a framework agreement between the government and only the Liberation and Justice Movement; the agreement cites the Guiding Principles on Internal Displacement. However, a comprehensive peace deal will require an agreement among all parties to the conflict, including in particular the Justice and Equality Movement (JEM) and the Sudan Liberation Movement–Abdel Wahid armed groups.

Especially in the absence of a comprehensive peace agreement for Darfur, progress toward achieving durable solutions to displacement inevitably is limited due to continued insecurity and ongoing problems of safe and unrestricted humanitarian access to all conflict-affected areas and populations. Nonetheless, certain efforts have been made, especially by affirming the relevance of key international standards and putting in place mechanisms to ensure that those standards are observed. In particular, the High-Level Committee for Darfur, of which the government of Sudan is a member, agreed to a joint verification mechanism for returns in October 2009, in line with the UN Guiding Principles on Internal Displacement and Sudan’s National Policy on Internally Displaced Persons.<sup>112</sup> IDP returns in Darfur are monitored and coordinated by the Humanitarian

Aid Commission of the government of Sudan, UN agencies, the International Organization for Migration, the United Nations–African Union Mission in Darfur and NGOs. The mechanism was activated in December 2009. Its work has only underscored the severe lack of the conditions necessary to achieve durable solutions. In July 2010, reporting on over 100 assessment missions conducted over five months, the UN Secretary-General revealed that permanent and durable returns were few and far between in all three states of Darfur due to “rural insecurity and land tenure disputes, crop destruction and a lack of rule of law and basic services in areas of origin.”<sup>113</sup> Until those issues are resolved, safety is ensured, and a voluntary choice is offered of possible solutions—whether return, local integration or resettlement—it is difficult to envisage meaningful progress in the search for durable solutions for IDPs and refugees displaced by the ongoing conflict in Darfur.

In Yemen as elsewhere, the government has promoted return as the preferred solution for IDPs. In 2009, while conflict was ongoing, it was reported that IDPs living in camps had been pressured, either directly or through the withdrawal of humanitarian assistance, to return.<sup>114</sup> Moreover, many IDPs risked secondary displacement on returning, as they were going back to destroyed homes, communities without services, and often a lack of security due to the absence of government forces and the presence of land mines and unexploded ordnance.<sup>115</sup> Those conditions also prevented access to income-generating opportunities, pushing many IDPs into trafficking and child labor.<sup>116</sup>

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<sup>112</sup> The High-Level Committee for Darfur was established in 2008 by the “Joint Communiqué on Facilitation of Humanitarian Activities in Darfur” in 2008. Its members are the Government of National Unity, the African Union, UN humanitarian agencies, the League of Arab States, the European Commission, Russia, the Netherlands, Canada, the United States, and the United Kingdom. Ministerial Decree No. 4 of May 2009 strengthened and expanded the committee. UNMIS, “HLC Joint Press Advisory,” November 2010 ([www.unsudanig.org/docs/HLC%20Joint%20Press%20Advisory%2028%20November%202010.pdf](http://www.unsudanig.org/docs/HLC%20Joint%20Press%20Advisory%2028%20November%202010.pdf)); Sudanese News Agency, “Sudan: High-Level Committee on Humanitarian Activities in Darfur Lauds Government Cooperation,” 21 May 2007 ([www.reliefweb.int/rw/rwb.nsf/db900sid/SHES-73ER9B?OpenDocument](http://www.reliefweb.int/rw/rwb.nsf/db900sid/SHES-73ER9B?OpenDocument)).

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<sup>113</sup> UN Security Council, *Report of the Secretary-General on the African Union–United Nations Hybrid Operation in Darfur*, S/2010/382, 14 July 2010, para. 39 ([www.un.org/en/peacekeeping/missions/unamid/reports.shtml](http://www.un.org/en/peacekeeping/missions/unamid/reports.shtml)).

<sup>114</sup> IDMC, *Yemen: Constrained Response to Protection Needs of IDPs and Returnees*, July 2009, p. 110, available at: [www.internal-displacement.org](http://www.internal-displacement.org)

<sup>115</sup> Ibid; Reuters, “Interview–Yemen donors wary as displaced slowly return north,” 8 June 2010 (<http://uk.reuters.com/article/2010/06/08/idUKLDE65624G>).

<sup>116</sup> IDMC, *Yemen: Constrained Response to Protection Needs of IDPs and Returnees*, p. 97.

Since the signing of a cease-fire agreement in February 2010, emphasis on the return of IDPs has been given new impetus by the government, which has promised assistance for returnees.<sup>117</sup> However, in practice conditions of insecurity persisted in 2010 in areas of origin in the North, and insufficient funds have been disbursed to those who return.<sup>118</sup> A rapid survey undertaken by UNHCR of 439 families in Hajjah and Amran governorates after the February 2010 cease-fire revealed that only 18 percent of those surveyed intended to return within the next six months; the rest either had yet to decide or planned to return later.<sup>119</sup> Obstacles to return cited by IDPs included the risk of renewed conflict, land mines, property damage, fear of arrest and food insecurity.<sup>120</sup> By June 2010, only an estimated 28,000 IDPs (or about 10 percent of those registered) had in fact returned.<sup>121</sup>

On 1 July 2010, the government announced that it had reached a new “reconciliation deal” with Houthi rebels in Sa’ada, with the stated purposes of bolstering the February cease-fire, addressing tribal conflicts, and encouraging the return of IDPs. According to the Minister of Local Administration, the agreement stipulates that the Houthi rebels would, among other things, “ensure

security along roads and in mosques and schools to encourage the return of IDPs.” However, according to the secretary-general of a local council in Sa’ada, “too many IDPs don’t want to return home ... They are skeptical about security and stability being restored to Sa’ada. They see this [deal] as one of a series of ineffective agreements that failed to end the six-year conflict.”<sup>122</sup> According to the RSG Kälin, the lack of alternative durable solutions for IDPs, namely local integration or resettlement elsewhere in the country, risks creating a situation of protracted internal displacement.<sup>123</sup>

In the South, a conflict beginning in May 2011 had displaced over 90,000 people from their homes in the governorates of Aden, Lahj, Abyan and Sana’a by early August 2011, with many government services severely disrupted or halted altogether and a declining economic situation adding to the vulnerability of the displaced. Determining the exact number of IDPs has been difficult to ascertain in parts of the country due to the conflict and limited access.<sup>124</sup>

<sup>117</sup> IRIN, “Yemen: Fatal Clashes Strain Sa’ada Cease-Fire,” 1 June 2010 ([www.irinnews.org/Report.aspx?ReportId=89326](http://www.irinnews.org/Report.aspx?ReportId=89326)).

<sup>118</sup> IRIN, “Yemen: Ongoing Violence in North Hinders IDP Returns,” 7 June 2010 (<http://irinnews.org/Report.aspx?ReportId=89387>); IRIN, “Yemen: IDP Returnees Face Tough Challenges,” 29 March 2010 ([www.irinnews.org/report.aspx?ReportID=88599](http://www.irinnews.org/report.aspx?ReportID=88599)); International Crisis Group, “Yemen: Defusing the Sa’ada Time Bomb,” 27 May 2009, p. 23 ([www.crisisgroup.org](http://www.crisisgroup.org)); IRIN, “Yemen: Northern Rebels Accuse President of Reneging on Promises,” 24 June 2010 (<http://irinnews.org/Report.aspx?ReportId=89604>).

<sup>119</sup> IDMC, *Yemen: IDPs Facing International Neglect*, August 2010 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>120</sup> Ibid.

<sup>121</sup> UN Office for the Coordination of Humanitarian Affairs, “Registered and Returned IDPs: As of 14 June 2010,” 14 June 2010 (<http://reliefweb.int/rw/rwb.nsf/db900sid/LPAA-86HAZ7?OpenDocument>).

<sup>122</sup> IRIN, “Yemen: Government Moves to Speed Up IDP Returns,” 1 July 2010 ([www.irinnews.org/report.aspx?Reportid=89696](http://www.irinnews.org/report.aspx?Reportid=89696)).

<sup>123</sup> United Nations Office of the High Commissioner for Human Rights (UN OHCHR), “IDPs in Yemen Threatened by Lack of Humanitarian Funding,” 12 April 2010 ([www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9957&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9957&LangID=E)).

<sup>124</sup> See, for example, OCHA, *Yemen Humanitarian Emergency Situation Report No. 6*, 3 August 2011; OCHA, *Yemen Humanitarian Emergency Situation Report No. 4*, 15 July 2011; OCHA, *Yemen Humanitarian Emergency Situation Report No. 3*, 1 July 2011; OCHA, *Yemen Civil Unrest and Displacement Humanitarian Country Team Situation Report No. 1*, 7 June 2011 (<http://reliefweb.int>); IRIN, “Yemen: Civilians Flee Violence in the South,” 31 May 2011 ([www.irinnews.org/report.aspx?reportid=92860](http://www.irinnews.org/report.aspx?reportid=92860)); UN News Centre, “More Yemenis Dependent on Aid Because of Ongoing Conflict: UN,” 18 July 2011 ([www.un.org/apps/news/story.asp?NewsID=39068&Cr=yemen&Cr1=](http://www.un.org/apps/news/story.asp?NewsID=39068&Cr=yemen&Cr1=)).

**Countries in which the conflict is “frozen”:  
Active fighting has ceased but a political  
settlement remains**

In Turkey, while the government has worked to establish conditions to enable durable solutions for IDPs, especially through its Return to Village and Rehabilitation Project (RVRP), initiated in 1994, and the Van Action Plan (2006), several factors hinder the attainment of durable solutions for the approximately 1 million IDPs in the country. Obstacles include the continued existence in areas of return of the paramilitary provincial and voluntary militia called “village guards,” who often were implicated in the initial displacement; landmines and unexploded ordnance; armed clashes that have occurred intermittently since 2004; with some exceptions, lack of adequate public infrastructure; and limited economic opportunities.<sup>125</sup>

According to official government figures, the Return to Village and Rehabilitation Project had been implemented in fourteen eastern and southeastern provinces as of September 2009 and, as of July 2009, over 150,000 IDPs had returned to their original places of residence.<sup>126</sup> However, there are concerns about the reliability of the government’s statistics on return. For example, Human Rights Watch has suggested that they have been inflated in some instances or otherwise manipulated, including by counting returned village guards who then confiscate the property of evicted villagers as “returnees.”<sup>127</sup> According to a survey by Hacettepe University in 2006, 120,000 IDPs had returned, representing only 10 percent of the IDP population. Moreover, the vast majority of returnees surveyed (88 percent) had returned without assistance from the government and about half of them were not aware of their entitlements under the RVRP or the Law on Compensation.<sup>128</sup>

Intended to complement the RVRP and other IDP assistance mechanisms, the Van Action Plan supports reconstruction and durable solutions to displacement in Van Province. The plan, developed in collaboration with UNDP, represents a significant step toward addressing IDP issues and was welcomed by RSG Kälın. One of the strengths of the plan is that given that many IDPs in urban areas do not want to return, it also provides measures to address urban internal displacement. However, there are several outstanding gaps in the Van Action Plan: it does not adequately address obstacles to

<sup>125</sup> See, for example, Council of Europe, Commissioner for Human Rights, *Report: Thomas Hammarber, Commissioner for Human Rights of the Council of Europe Following His Visit to Turkey on 28 June– 3 July 2009*, 1 October 2009 ([www.commissioner.coe.int](http://www.commissioner.coe.int)); European Commission, *2003 Regular Report on Turkey’s Progress Towards Accession* ([http://ec.europa.eu/enlargement/archives/pdf/key\\_documents/2003/rr\\_tk\\_final\\_en.pdf](http://ec.europa.eu/enlargement/archives/pdf/key_documents/2003/rr_tk_final_en.pdf)); UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng, Submitted Pursuant to Commission on Human Rights Resolution 2002/56—Addendum: Profiles in Displacement: Turkey*, E/CN.4/2003/86/Add.2, 27 November 2002 ([www2.ohchr.org/english/issues/idp/visits.htm](http://www2.ohchr.org/english/issues/idp/visits.htm)); OHCHR, “Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons Sees New Hope for the Internally Displaced Persons in Turkey,” Press release, 6 May 2005 ([www.brookings.edu/projects/idp/RSG-Press-Releases/20050506\\_turkeypr.aspx](http://www.brookings.edu/projects/idp/RSG-Press-Releases/20050506_turkeypr.aspx)); UNDP, “Working Visit by the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons to Turkey, 28 September–1 October 2006: Conclusions and Recommendations,” 2006 ([www.undp.org.tr/GoZlem2.aspx?WebSayfaNo=726](http://www.undp.org.tr/GoZlem2.aspx?WebSayfaNo=726)).

<sup>126</sup> Also see IDMC, *Turkey: Need for Continued Improvement in Response to Protracted Displacement: A Profile of the Internal Displacement Situation*, 26 October 2009, p. 41 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>127</sup> See Human Rights Watch, *Still Critical: Prospects in 2005 for Internally Displaced Kurds in Turkey*, 6 March 2005 ([www.hrw.org](http://www.hrw.org)).

<sup>128</sup> Hacettepe University, Institute of Population Studies, “Findings of the Turkey Migration and Internally Displaced Population Survey,” press release, 6 December 2006 ([www.hips.hacettepe.edu.tr/tgyona/press\\_release.pdf](http://www.hips.hacettepe.edu.tr/tgyona/press_release.pdf)), cited in IDMC, *Turkey: Need for Continued Improvement in Response to Protracted Displacement: A Profile of the Internal Displacement Situation*, 26 October 2009, p. 11 ([www.internal-displacement.org](http://www.internal-displacement.org)).

durable solutions, including return, which is hindered by the village guard system, insecurity and the presence of landmines and unexploded ordnance. Some observers believe that these issues, along with the Kurdish question, need to be addressed first at the national level, in the framework of a solid national policy.<sup>129</sup>

Some effort has been made to do so through the adoption of the Integrated Strategy Document by the Council of Ministers in 2005. This document is in line with the Guiding Principles, including in terms of the definition of IDPs, the promotion of safe and voluntary returns and the provision of assistance for return and reintegration. It also makes positive strides toward durable returns by giving priority to addressing the complaints surrounding the village guard system, removing landmines that hinder return, and consulting with NGOs.<sup>130</sup> However, it has been criticized for favoring “centralized villages,” in which IDPs have been averse to resettling (such as under the RVRP) because they are outside of their original villages or hamlets.<sup>131</sup>

<sup>129</sup> For a thorough evaluation of the Van Action Plan, see Deniz Yüksek and Dilek Kurban, *Permanent Solution to Internal Displacement? An Assessment of the Van Action Plan for IDPs*, Turkish Economic and Social Studies Foundation (TESEV), May 2009 ([www.tesev.org.tr/UD\\_OBJS/PDF/DEMP/TESEV\\_VanActionPlanReport.pdf](http://www.tesev.org.tr/UD_OBJS/PDF/DEMP/TESEV_VanActionPlanReport.pdf)).

<sup>130</sup> For the full text, see Brookings-LSE Project on Internal Displacement, “National and Regional Laws and Policies on Internal Displacement: Turkey” ([www.brookings.edu/projects/idp/Laws-and-Policies/turkey.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/turkey.aspx)). The RSG has recommended to the government that it produce a national IDP policy; see for example, UNDP, “Working Visit by the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons to Turkey, 28 September–1 October 2006: Conclusions and Recommendations,” 2006 ([www.undp.org.tr/Gozlem2.aspx?WebSayfaNo=726](http://www.undp.org.tr/Gozlem2.aspx?WebSayfaNo=726)).

<sup>131</sup> Dilek Kurban, Ayşe Betül Celik and Deniz Yüksek, *Overcoming a Legacy of Mistrust: Toward Reconciliation between the State and 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 Turkey*, IDMC/TESEV, June 2006 ([www.internal-displacement.org](http://www.internal-displacement.org)).

As noted above, one of the principal obstacles to durable solutions is the continued existence of the paramilitary village guard system. According to Human Rights Watch, rates of return in areas heavily dominated by village guards are markedly low and “security forces often make village guard service an informal requirement for return.” Ironically, it was their refusal to join the village guard system that resulted in many IDPs’ forced displacement because refusing provided the grounds for their forcible evacuation by Turkish authorities. The Kurdish Human Rights Project (KHRP) has pointed to allegations by the Turkish Human Rights Foundation in 2004 that male IDPs are forced to become village guards as a condition for return, and KHRP views as discriminatory the pressure exerted on them to do so by the Gendarmerie Intelligence and Anti-Terror Unit of the armed forces and condoned by public officials in the districts of Şemdinli and Kızıltepe.<sup>132</sup> Furthermore, the government’s approach to return is reported to be discriminatory, with former village guards allegedly giving less priority for assistance to any persons perceived (rightly or wrongly) to be linked to the Kurdistan Workers’ Party (PKK). Representative to the Secretary-General on Internally Displaced Persons Francis Deng noted this alleged practice in his 2002 mission report on Turkey and presented related recommendations for ensuring a nondiscriminatory approach to return.<sup>133</sup>

<sup>132</sup> Human Rights Watch, “Letter to Minister Aksu Calling for the Abolition of the Village Guards,” 7 June 2006 ([www.hrw.org](http://www.hrw.org)); Human Rights Watch, *Displaced and Disregarded: Turkey’s Failing Village Return Program*, October 2002. According to the Turkish Economic and Social Studies Foundation, “the Kurdish Human Rights Project (‘KHRP’) bases this view on an April 2004 report by the Turkish Human Rights Foundation (‘Türkiye İnsan Hakları Vakfı–‘TİHV’)”; see Dilek Kurban and others, *Coming to Terms with Forced Migration: Post-Displacement Restitution of Citizenship Rights in Turkey*, TESEV, 2007, p. 124, ([www.tesev.org.tr/UD\\_OBJS/PDF/DEMP/ENG/comingto termswithforcedmigration.pdf](http://www.tesev.org.tr/UD_OBJS/PDF/DEMP/ENG/comingto termswithforcedmigration.pdf)).

<sup>133</sup> UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng, Submitted Pursuant to Commission on Human Rights Resolution 2002/56–Addendum: Profiles in Displacement: Turkey*, E/

The village guard system has been widely condemned, both nationally and internationally, but Turkey has yet to abolish it, despite promises to do so to the RSG on IDPs and to the European Union.<sup>134</sup> In June 2007, an amendment to the Village Law went into effect, permitting the recruitment of up to 60,000 village guards.<sup>135</sup>

Land mines and unexploded ordnance—which have been laid by the state and the Kurdistan Workers' Party (PKK)—also hinder durable returns in Turkey. They pose a significant threat to civilians, including returning IDPs and even military personnel, in the east and southeast of the country.<sup>136</sup>

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CN.4/2003/86/Add.2, 27 November 2002 ([www2.ohchr.org/english/issues/idp/visits.htm](http://www2.ohchr.org/english/issues/idp/visits.htm)).

<sup>134</sup> Turkish, UN and European entities have called for the abolishment of the village guard system, including the Turkish Grand National Assembly's 1995 parliamentary commission on political killings, the Grand National Assembly's 1997 parliamentary commission on the Susurluk affair and the Grand National Assembly's 1998 parliamentary commission on internal migration; the RSG for IDPs (2002); the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (2001), the Parliamentary Assembly of the Council of Europe (2002), the Kurdish Human Rights Project and Bar Human Rights Committee of England and Wales (2006), Human Rights Watch (2006), Council of Europe (Thomas Hammarberg, Commissioner for Human Rights, October 2009).

<sup>135</sup> *Official Gazette*, "Köy Kanunundave Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun" [Law Concerning Amendments Brought to the Law on Villages and Some Other Laws], No. 5673, 27 May 2007. 26450, 2 June (<http://rega.basbakanlik.gov.tr/Eskiler/2007/05/20070527-2.htm>), as cited in Dilek Kurban and others, *Coming to Terms with Forced Migration: Post-Displacement Restitution of Citizenship Rights in Turkey*, TESEV, 2007, p. 18. According to TESEV, "The position of provisional village guards was created on 26 March 1985 through a clause added by Law no. 3175 to the 1924 Village Law (Law no. 442)," in Dilek Kurban, Ayşe Betül Çelik and Deniz Yüksek, *Overcoming a Legacy of Mistrust*, p. 20.

<sup>136</sup> See, for example, Deniz Yüksek and Dilek Kurban, *Permanent Solution to Internal Displacement? An Assessment of the Van Action Plan for IDPs*, p. 11.

In Georgia, from the early days of the displacement crisis, the government has emphasized return of IDPs to their places of origin as the only desirable solution.<sup>137</sup> Indeed, the authorities created legal, administrative and political obstacles to the full exercise by IDPs of their rights in their place of displacement and impeded their economic, social and political integration, even if temporary.<sup>138</sup> While those obstacles have now largely been removed and the government has shown itself in recent years to be open to improving IDPs' living conditions in the place of displacement, emphasis on the right of IDPs and refugees to return remains the centerpiece of the government's approach to displacement.

In fact, considerable IDP return did occur, both to South Ossetia and to Abkhazia, in particular to the Gali region, during the periods since the mid-1990s when there was a long break in active hostilities. However, that return was not sustainable in the absence of secure conditions and a lasting solution to the conflict, as was revealed in May 1998 when a renewed outbreak of violence in the Gali district of Abkhazia displaced some 40,000 recent returnees anew. In subsequent years, approximately 45,000 to 55,000 IDPs returned spontaneously to the Gali district, although to this day, for political reasons, their return is not officially acknowledged by the government of Georgia. Meanwhile, the Abkhaz side has pushed for recognition of the IDPs' return, which would bring political gains by suggesting that normalcy and effective law and order have been established in the region and that IDPs have "voted with their feet."

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<sup>137</sup> See further the case study on Georgia in chapter 2 of this volume.

<sup>138</sup> See UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, paras. 34–69; UN Commission on Human Rights, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Mission to Georgia (21 to 24 December 2005)*, 24 March 2006, para. 15; Erin Mooney and Balkees Jarrah, *The Voting Rights of Internally Displaced Persons: The OSCE Region* (Brookings Institution—Johns Hopkins SAIS Project on Internal Displacement, November, 2004),

Return of IDPs and refugees always has been a heavily politicized issue and a major stumbling block in the peace process for both conflicts. While the Georgian government has consistently promoted the right to return and considers return a key element in its reestablishment of territorial control over the two secessionist areas, for the same reasons the de facto authorities of Abkhazia and South Ossetia largely resist return, albeit with some exceptions. Lasting political solutions to these conflicts and the possibility of large-scale return of the displaced have remained elusive.

At the same time, the government's emphasis on return has had the effect of undermining IDPs' rights in their place of displacement. Until 2007, IDPs were legally barred from owning land or voting in the locality where they were living while displaced unless they forfeited their IDP status and its associated benefits. In addition, IDPs were led to believe that by exercising such rights in their place of displacement, they risked forfeiting their right to return and regain their property in their place of origin. At the same time, the authorities were resistant to allowing international aid and development agencies and donors to help IDPs shift from a state of dependency to self-reliance by providing support for livelihoods. Since the early 1990s, almost half of IDPs have continued to live in the dilapidated and overcrowded "collective centers" that were established in schools, dormitories, factories and even functioning hospitals and were intended to serve only as temporary emergency shelter.<sup>139</sup>

The situation began to change following the "Rose Revolution" of 2003, which brought into power the government of President Saakashvili. The new administration, while maintaining the policy of promoting the right to return, nonetheless slowly began to modify the absolutist approach that impeded any effort to improve conditions, at least in the interim, for IDPs in their place

of displacement. This significant policy shift was formalized with the government's adoption in February 2007 of the State Strategy for Internally Displaced Persons, which marked the government's first-ever recognition that solutions to displacement other than return—including supporting efforts toward local integration and securing dignified living conditions for IDPs in their place of displacement—were a legitimate policy goal. In practice, however, return continued to be emphasized, as reflected in the action plan for implementing the State Strategy.

Yet following the August 2008 renewal of hostilities and the subsequent recognition by the Russian Federation and a handful of other countries of Abkhazia and South Ossetia as independent states, the government and population of Georgia have come to the realization that return is not a viable option for most IDPs in the foreseeable future. Beginning with the "new" 2008 IDPs and then eventually including the "old" protracted IDPs, the government began to implement the second goal of the strategy: supporting improved living conditions for IDPs in their place of displacement. The focus is heavily but not exclusively on providing adequate shelter, and by May 2010, the Ministry for Foreign Affairs had announced that durable housing solutions were provided for 20,800 people displaced by the August 2008 conflict and for 10,911 families displaced from earlier conflicts. However, at times the process of implementing the shelter program, which in some cases entails moving IDPs to new locations elsewhere in the country, has been tense and problematic. In particular, IDP discontent escalated in the summer of 2010 after the government announced that thirty-six collective centers were not eligible for privatization and would be evacuated and the residents offered alternative accommodation in villages outside of the city (where most of the affected IDP families refused to move) or financial compensation of \$10,000. The affected IDPs staged mass demonstrations, at which one IDP woman immolated herself in protest.<sup>140</sup> The Public

<sup>139</sup> UN Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia*, 2001, paras. 25–69.

<sup>140</sup> 'Self -Immolation Incident Highlights Desperation of Georgian IDPs,' *Radio Free Europe / Radio Liberty*, 29 October 2010.



Defender and the international community, including UNHCR, also criticized the process.<sup>141</sup> Internationally endorsed standard operating procedures for such cases since have been developed by the government.

The issue of restitution of housing, land and property left behind in IDPs' place of origin also has long been an important and often high-profile element of the national approach to resolving the situation of IDPs. Efforts have been made to address these issues for both IDPs from Abkhazia and those from South Ossetia, in the former case through a property registration campaign and in the latter case through a consensus among the parties to the conflict for a property restitution mechanism. Nevertheless, the issue remains unresolved and a major sticking point amid reports of illegal property occupation and even illegal transfers of title in IDPs' absence. In the case of the IDPs displaced by the August 2008 conflict, most households whose homes were destroyed during the hostilities received \$15,000 from the government to rebuild their homes; however, little reconstruction has taken place as many persons who received assistance fear resumption of hostilities or general insecurity and thus are reluctant to invest in rebuilding their homes in the context of a fragile cease-fire agreement.<sup>142</sup>

According to a survey in 2010 by the Caucasus Research Resource Centers and Conciliation Resources, when asked whether they would like to return, Georgians who were displaced from their homes by the 1992–93 war in Abkhazia overwhelmingly responded affirmatively. But upon further questioning they clarified that certain requirements would need to be met first, including those for safety, property restitution and, most notable, the return of Abkhazia to Georgia's effective territorial control. Moreover, in the interim they stated that they desperately need decent living conditions and support

for livelihoods in the communities where they have lived for years as IDPs.<sup>143</sup>

## Conclusion

Facilitating and supporting durable solutions to displacement is a key expression of a government's responsibility for internally displaced persons and perhaps the area in which government commitment to addressing displacement becomes most apparent. Resolving displacement requires a multifaceted effort, which calls for the involvement of a number of different ministries and offices across a range of fields (including human rights, humanitarian issues, security, economic development, justice and reconciliation, social protection and education) in a coordinated effort that has a clear strategy, solid political leadership and the resources as well as time needed to achieve resolution.

What is striking is that in all three scenarios set out in this chapter—resolution of the conflict causing displacement, ongoing conflict or violence, or so-called “frozen” conflict—it is evident that governments, with the exception of those of the Democratic Republic of the Congo and Myanmar, have taken certain steps to achieve durable solutions. That illustrates that putting creating conditions for durable solutions need not—and should not—wait for an official end to conflict. Certain groundwork, if only at the legal and policy levels, can be done well in advance, as has been done in Colombia. At the same time, it is equally striking that in none of the three scenarios have durable solutions to displacement been fully achieved in the countries studied. That underscores that achieving durable solutions requires considerable time, effort and resources and therefore requires the sustained commitment of the government. Supporting solutions also requires the long-term

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<sup>141</sup> “Statement of Public Defender of Georgia Regarding Eviction of Internally Displaced Persons,” 17 August 2010 ([www.ombudsman.ge](http://www.ombudsman.ge)); “UNHCR Concerned Over IDPs Eviction Process,” 24 August 2010.

<sup>142</sup> Amnesty International, *In the Waiting Room: Internally Displaced People in Georgia* (August 2010), p. 44 ([www.amnesty.org](http://www.amnesty.org)), p. 14.

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<sup>143</sup> See the “IDPs in Georgia Survey” findings on Georgians displaced from their homes by the 1992–93 war in Abkhazia in Magdalena Frichova Grono, *Displacement in Georgia: IDP Attitudes to Conflict, Return and Justice: An Analysis of Survey Findings* (London: Conciliation Resources, April 2011), p. 6 ([www.c-r.org](http://www.c-r.org)).

commitment of the international community, but the reality is that international attention and resources are only likely to decrease over time, thus shifting greater responsibility on the government, where, indeed, responsibility to secure durable solutions ultimately lies.

The empirical evidence of this survey has underscored the importance of establishing other key conditions—security of land tenure, economic opportunities, infrastructure and public services—in order to ensure that the solutions that IDPs choose are sustainable. Land and property disputes are almost always sources (or manifestations) of lingering conflict and often an obstacle to IDPs' free exercise of their right to return. While some governments have made efforts to provide mechanisms for property restitution or compensation, those mechanisms have rarely been adequate to deal—at least in a timely manner—with the scale and complexity of the claims presented.

While the Framework for National Responsibility identifies three durable solutions—return, local integration and settlement elsewhere in the country—the fifteen countries surveyed herein reflect a global tendency to emphasize return. Yet for solutions to be voluntary, IDPs must be able to choose among them, and local integration or settlement elsewhere in the country may in fact be some IDPs' preferred solution. Indeed, especially in situations of protracted displacement, those may be the only feasible solutions, at least until sustainable return becomes a possibility. And while governments by and large prefer return, existing surveys of IDP preferences revealed more nuanced results as examined in this benchmark analysis. In all of the countries analyzed in this report and in other countries throughout the world, more attention must be given to alternatives to return, including the option of local integration in the place of displacement, particularly in cases of protracted displacement.<sup>144</sup>

<sup>144</sup> Brookings-LSE Project on Internal Displacement, *Resolving Internal Displacement: Prospects for Local Integration*, June 2011 ([www.brookings.edu/events/2011/01\\_protracted\\_displacement.aspx](http://www.brookings.edu/events/2011/01_protracted_displacement.aspx)).

Return of IDPs is frequently a highly politicized issue. That is true in several cases, including Georgia, Sudan and Iraq, given the real or perceived implications for the demographic composition which returns would affect and the potential for return to increase conflicts over the political status or self-determination of a territory. Moreover, as time drags on, if there is no change in circumstances that permits durable solutions, solutions may become more difficult to implement. For example, land and property issues, always complicated for IDPs, can become more difficult to resolve over time as land records are lost, people with knowledge of customary land entitlements die, and traditional land markers are eroded or disappear. Also, as is well documented elsewhere, generational differences emerge as, for example, children resist returning to communities that they have never known or find that displacement in urban areas offers better access to public services and income-generating opportunities. Such benefits may be difficult to refuse, especially if the development or reconstruction of rural infrastructure has stagnated.

By contrast, in other cases, the passage of time may lead to an easing of communal tensions that makes return possible. In the best of cases, political conditions change and peace agreements become possible, opening up the way for returns, although by no means will return be immediate. Thus in South Sudan, in spite of the protracted displacement occurring over decades, the signing of the Comprehensive Peace Agreement opened the way for hundreds of thousands of Southern Sudanese to return to the South in subsequent years. Similarly, in spite of long years of displacement in Northern Uganda, political conditions changed over time, allowing the return of the vast majority of IDPs.

In all of the case studies, it is striking how little is known about returns in spite of the fact that return is the solution most often supported by governments. In some cases, there are detailed reports of individuals or communities returning to their areas of origin at a particular point in time. But for the most part, neither the United Nations nor governments seem to have a precise handle on how many have returned, the locations where they settle or the

conditions that they face. The data seem to indicate that the vast majority of IDP returns occur spontaneously, without or at least in advance of the assistance of governments or international agencies. There is also virtually no information on whether IDP returns constitute durable solutions. Knowing what we know about the mobility of IDPs, it seems likely that some people return to their communities, find that things are not what they thought they would be and then move back—or somewhere else. This is an area where there is an urgent need for much greater monitoring and research.

The ability to assess how many IDPs achieve durable solutions is problematic given the lack of data. As the

Internal Displacement Monitoring Centre noted for 2010, “There was no data available on the number of IDPs who achieved durable solutions in 2010 due to the lack of adequate monitoring and understanding of the process of durable solutions.”<sup>145</sup> This points to the need not just for the collection or development of data, but also to the need for basic education and consensus (as interpretations can vary among and within governments) on what constitutes a durable solution.

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<sup>145</sup> IDMC, *Internal Displacement: Global Overview of Trends and Developments in 2010*, March 2011 p. 9 ([www.internal-displacement.org](http://www.internal-displacement.org))



Iraq / Abbas (at right), aged 7 years, runs to his mother Sabah A., aged 30, in the city of Erbil. This internally displaced family escaped from Mosul after Sabah's brother was killed for working with the Peshmerga.  
Photo: UNHCR / W. Khuzaiie / April 2009

## Benchmark 11

### Allocate Adequate Resources to the Problem

#### ***Do the authorities prioritize internal displacement in allocating budgetary resources and in mobilizing international support?***

Governments have a responsibility to allocate sufficient funding to support programs to safeguard civilians against displacement, to assist and protect IDPs during displacement, and to create conditions that enable durable solutions. Without funds, none of those responsibilities can be effectively and fully implemented. When the financial resources of a country are insufficient to fulfill its national responsibilities, its government is expected to turn to international funders to support its efforts to address internal displacement (see also Benchmark 12 regarding cooperation with the international community.) The extent to which a government gives priority to funding for IDPs—whether through its national budget or in its requests to external donors—is an indication both of its awareness and of its commitment to internally displaced persons. In other words, a key question is whether governments are, as the saying goes, “putting their money where their mouth is.”

Answering that question clearly and accurately can be challenging. It has proven to be more difficult to collect data on the financial resources that governments devote to address internal displacement than on any of the other benchmarks used in this study. A number of factors complicate data collection efforts. Information on a government’s budget and spending is not always made public, and statements by public officials on these issues tend to be general and often inconsistent. The multifaceted nature of internal displacement and thus of the government response required means that resources typically will be needed for a range of different sectors—for example, security, justice, humanitarian response, education, health, development, and so forth—each of which has its own budget line but rarely earmarks funds

specifically for IDPs. Even when there is a dedicated line in the national budget for IDP issues or when government officials have indicated their intention to allocate a certain level of funding to those issues, determining whether the funds were in fact allocated, disbursed and spent can be extremely difficult. Such issues, along with the variety of budget systems across different countries, make comparative analysis of IDP funding difficult.

Another difficulty in assessing this benchmark is in the term “adequate resources.” Even if data were available on budgetary allocations for IDPs, it is difficult to assess what constitutes an “adequate allocation of resources.” Declaring, for example, that a government allocates X number of dollars per IDP would be misleading on several counts. IDPs living in different situations have different needs; an employed IDP living temporarily with a host family in Pakistan may not require the same amount of assistance as an IDP living in a camp who depends on assistance for survival. An adequate level of assistance for an elderly urban IDP in Georgia may be very different from that for a female-headed household in rural Colombia or the Democratic Republic of the Congo. In addition to being difficult, such direct comparisons among countries are not especially relevant because they do not take into account the availability of public services or the overall economic situation in the country, in particular the amount of resources that are available to the government.

The focus therefore must be on the extent to which a government, within its existing resources, gives priority to spending on IDP issues. Here, the way that the resource issue is addressed within the framework of international human rights provides helpful guidance. The International Covenant on Economic, Social and Cultural Rights, Article 2, states

Each State Party undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights by all appropriate means.

This provision acknowledges that resources are limited, while also making clear that a lack of adequate resources is not a justification for inaction. Available resources need to be used effectively and fully with the aim of achieving, over time, progress and results in terms of access to rights.<sup>1</sup>

Detailed budget analysis therefore is required. While it has unfortunately proven to be impossible (within the constraints of the resources for this study) to collect comprehensive data on the allocation and disbursement of resources to address internal displacement, the following overview provides some observations on government policies on resource allocation for IDPs.

## Overview of research findings

Colombia illustrates both the importance and limitations of putting in place a legal framework for IDP protection and assistance and mechanisms for monitoring and analysis of policy implementation. On one hand, the attention that protection of IDP rights has garnered in Colombia from the Constitutional Court has led the government to increase its budget allocations for IDP assistance in accordance with its legal obligations under the 1991 Constitution and Law 387 of 1994 and developed through regulations and documents adopted by the National Council on Economic and Social Policy (CONPES) that contain the council's guidelines on specific aspects of the National Plan for Comprehensive Assistance to Populations Displaced by Violence, formulated as called for in Law 387. While implementation of Law 387 remains problematic, it must be said that the adoption of the law itself (see further, Benchmarks 5 and 6) marked a watershed for consideration of the IDP issue in Colombia, as Constitutional Court Justice

Manuel Cepeda Espinosa has observed.<sup>2</sup>

Yet financial shortfalls and other related obstacles persist, precluding realization of full respect for the rights of internally displaced Colombians. In 2004, the Constitutional Court issued its landmark Decision T-025, declaring that an “unconstitutional state of affairs” existed as a result of the gap between the rights guaranteed to IDPs by domestic law and the insufficient resources and institutional capacity of the government to protect those rights. In that decision, the court examined budgetary allocations for IDPs between 1999 and 2003 and found that while there was a significant increase in resources for IDPs between 1999 and 2002, there was a 32 percent decrease in 2003. The court held that while the decrease represented fiscal reality in Colombia, the state was nonetheless not excused from its legal obligations to provide timely and adequate assistance to IDPs under Law 387.<sup>3</sup> Among other remedial measures, the court addressed the budgetary shortfall for IDP issues<sup>4</sup> by ordering the national and territorial entities responding to internal displacement “to fully comply with their constitutional and legal duties, and to adopt, in a reasonable term and within their spheres of jurisdiction, the necessary corrective measures to secure sufficient budgetary appropriations.”<sup>5</sup> The court

<sup>1</sup> International Covenant on Economic, Social and Cultural Rights, Article 2(1). See also, for example, Committee on Social and Economic Rights, General Comment No. 12 on the Right to Adequate Food (UN doc. E/C.12/1999/5 of 1999) and General Comment 14 on the Right to the Highest Attainable Standard of Health (UN doc. E/C.12/2000/4 of 2000).

<sup>2</sup> Justice Manuel Cepeda Espinosa, “The Constitutional Protection of IDPs in Colombia,” pp. 6–7, in Rodolfo Arango Rivadeneira, ed., *Judicial Protection of Internally Displaced Persons: The Colombian Experience* (Washington, D.C.: Brookings-Bern Project on Internal Displacement, November 2009) ([www.brookings.edu/papers/2009/11\\_judicial\\_protection\\_arango.aspx](http://www.brookings.edu/papers/2009/11_judicial_protection_arango.aspx)).

<sup>3</sup> Colombian Constitutional Court, Decision T-025 of 2004, adopted by the third chamber of the court, composed of Manuel José Cepeda Espinosa, Jaime Córdoba Triviño and Rodrigo Escobar Gil. See section 1.1 of Annex 4 and Section 6.3.2, available at Brookings-LSE Project on Internal Displacement, “National and Regional Policies on Internal Displacement: Colombia” ([www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/colombia.aspx)).

<sup>4</sup> Ibid.

<sup>5</sup> Section 6.3.2, cited in Justice Manuel Cepeda Espinosa, “The Constitutional Protection of IDPs in Colombia,” pp. 16–17, in *Judicial Protection of Internally Displaced Persons: The Colombian Experience*.

also ordered the National Council for Comprehensive Assistance to the Population Displaced by Violence to define, within two months, the amount of resources to be used at the national and territorial levels to overcome the “unconstitutional state of affairs” and thereby fulfill the state’s obligations to IDPs.

In large part because of the jurisprudence of the Constitutional Court, the government has increased its budget allocations to IDP issues since Decision T-025. According to a government statement in July 2010, central government allocations to IDPs increased tenfold between 2002 and 2010, from 543 million Colombian pesos (approximately \$220,000 using July 2002 rates) to 5.3 billion Colombian pesos (estimated 2.7 million using July 2010 rates).<sup>6</sup> On several occasions since its 2004 decision, the court has expressed dissatisfaction with government progress in several areas, including in terms of ensuring sufficient budgetary allocations.<sup>7</sup> In its 2010 report to the court, the government stated that it had made progress toward IDP protection and assistance, including by earmarking funds for IDPs. But there is an evident lack of trickle-down to local administrations from the central government as financial allocations to municipalities were still quite low, even for those with large IDP populations, and all municipalities had allocated less than 2 percent of their budgets to their response to internal displacement.<sup>8</sup>

Conversely, budgetary allocations may decrease over time, sometimes dramatically, from one year to the next. In Pakistan, in the 2009–10 fiscal year (FY) budget speech, Pakistan’s Minister of State for Finance and Economic Affairs emphasized the government’s responsibility to “meet the maintenance and rehabilitation costs” of IDPs displaced as a result of the insurgency. To that end, the government allocated 50 billion Pakistani rupees (Rs.) (\$630 million) (approximately 0.3 percent of GDP) of its total FY expenditure of Rs. 1699.19 billion for internal displacement–related relief, rehabilitation, reconstruction and security.<sup>9</sup> In contrast, the minister’s budget speech for FY 2010–11 made no mention of displacement. The only monetary allocation to IDPs that could be located was a nominal amount of money (Rs. 191,783 or \$2,275) allocated to “Emergency Relief and Repatriation” within the Cabinet secretariat.<sup>10</sup>

Of course, budgetary allocations are only the start of the story; resources must actually be dispersed. Nepal, for instance, does allocate funds in its national budget for IDPs, but there is a gap between allocation and distribution. As of January 2009, the Ministry of Peace and Reconstruction had distributed to districts only 42 percent of the total budget allocated for the State Relief and Assistance Package from the National Peace Trust Fund, and insufficient funds prevented most districts from providing adequate, if any, services for IDPs.<sup>11</sup>

<sup>6</sup> Internal Displacement Monitoring Centre (IDMC), *Overview: Colombia: Government response improves but still fails to meet needs of growing IDP population*, 10 December 2010, p. 8 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>7</sup> Manuel Jose Cepeda-Espinosa, “How Far May Colombia’s Constitutional Court Go to Protect IDP Rights?” *Forced Migration Review, Ten Years of the Guiding Principles on Internal Displacement* (2009), pp. 21–23.

<sup>8</sup> IDMC, *Overview: Colombia: Government response improves but still fails to meet needs of growing IDP population*, p. 8. For further analysis on municipalities’ responses to internal displacement in Colombia, see: Brookings-Bern Project on Internal Displacement, *Protecting the Displaced in Colombia: The Role of Municipal Authorities: A Summary Report*, July 2009 ([www.brookings.edu/reports/2009/07\\_colombia.aspx](http://www.brookings.edu/reports/2009/07_colombia.aspx)).

<sup>9</sup> “Budget for the Fiscal Year 2009-10” as presented by Minister of State for Finance and Economic Affairs, Hina Rabbani Khar, published 14 June 2009 by the Associated Press of Pakistan in *The Nation* ([www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Business/14-Jun-2009/Text-of-budget-speech](http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Business/14-Jun-2009/Text-of-budget-speech))

<sup>10</sup> “Revised Budget Ceilings 2010–2011,” D.O. No.F.3(1)/MTBF/2010/, Finance Division, Government of Pakistan, 8 July 2010. The U.S. dollar calculation is based on an early 2010 exchange rate.

<sup>11</sup> IDP Working Group, *Distant from Durable Solutions: Conflict-Induced Internal Displacement in Nepal*, June 2009 ([www.internal-displacement.org/8025708F004CE90B/\(httpDocuments\)/666B48300E469C68C12575E600347853/\\$file/distant+from+durable+solutions+June+2009.pdf](http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/666B48300E469C68C12575E600347853/$file/distant+from+durable+solutions+June+2009.pdf)).

Particularly when the IDP population is a sizable percentage of the national population, even basic care and maintenance operations can represent a significant strain on the budget. In Georgia in 2000, the Minister for Refugees and Accommodation informed Francis Deng, the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons (RSG on IDPs), that 15 percent of the state budget that year was devoted to providing IDPs with assistance to meet their basic needs.<sup>12</sup> At the time, the majority of those resources were channelled through the Abkhaz government in exile to support the system of parallel structures that it had established and administered to assist IDPs from Abkhazia (that system has since ceased operation). A large component of the financial resources devoted to IDPs in Georgia (it is now almost two decades since displacement first occurred) is for the disbursement of the monthly stipend to all IDPs recognized as having the status, under national legislation, of “forcibly displaced person–persecuted person.” The amount of the monthly stipend is minimal. For many years, it was only 12 GEL (equivalent to less than \$7.00); only recently was it increased, in 2009, to 24 GEL (\$13.00). Given the size of the IDP population (almost a quarter of a million people), that nonetheless represents a significant expenditure for the government. Moreover, the stipend is given to all IDPs, regardless of need. A shift from a status-based to needs-based system has long been advocated and is recognized in the State Strategy as a necessary goal. However, little progress has been made at a policy level.

In addition to allocations for IDP issues in the national budget, the president at times has chosen to allocate discretionary funds to addressing IDP issues. In particular, in 2006 the president launched a multimillion dollar property registration program called “My Home,” which used high-tech satellite imagery and thus was resource

intensive; however, the program has been criticized for being of minimal legal utility in substantiating property claims. Currently, the bulk of government resources (as well as the considerable international funds mobilized following the August 2008 hostilities) is dedicated to durable solutions to displacement, in line with the national IDP strategy.

Supporting durable solutions to displacement requires significant resources. In Turkey, the government reported having spent, under the Return to Village Rehabilitation Project (RVRP), \$54 million on infrastructure, social projects and assistance to returnees between 1999 and 2008 and having allocated an additional \$10 million to the RVRP for 2009.<sup>13</sup> The amount of aid provided by the RVRP has been criticized as inadequate.<sup>14</sup> The European Commission reported in October 2009 that progress in compensation assessments and actual payment of compensation as provided for in the Law on Compensation “has been slow” due to “lack of resources and the heavy workload of the Damage Assessment Commissions.”<sup>15</sup>

<sup>12</sup> Author’s notes, mission to Georgia, May 2000; UN Commission on Human Rights, Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis Deng—Addendum: Profiles in Displacement: Georgia, 2001, para. 110.

<sup>13</sup> Government of Turkey, October 2009, “Comments of the Republic of Turkey on the Report Regarding ‘Human Rights of Minorities’ by Mr. T. Hammarberg, Commissioner for Human Rights of the Council of Europe, Following His Visit to Turkey (28 June–3 July 2009),” cited in IDMC, Turkey: Need for Continued Improvement in Response to Protracted Displacement: A Profile of the Internal Displacement Situation, 26 October 2009, p. 11 ([www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/E6AF700E502B6D83802570B8005AAF9C?OpenDocument#49.12.1](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/E6AF700E502B6D83802570B8005AAF9C?OpenDocument#49.12.1)).

<sup>14</sup> Human Rights Watch, “*Still Critical: Prospects in 2005 for Internally Displaced Kurds in Turkey*, March 2005, ([www.hrw.org](http://www.hrw.org)); Dilek Kurban, Ayşe Betül Celik, and Deniz Yüksek, *Overcoming a Legacy of Mistrust: Toward Reconciliation between the State and 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 Turkey*, Internal Displacement Monitoring Centre (IDMC)/Turkish Economic and Social Studies Foundation, June 2006, p. 11 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>15</sup> European Commission, *Turkey 2009 Progress Report Accompanying the Communication from the Commission to the European Parliament and the Council: Enlargement*



In Sri Lanka,<sup>16</sup> it is difficult to obtain a full picture of national expenditure on IDPs, owing in part to the fact that there is no single focal point for addressing internal displacement. According to government data for 2007-2013, the expenditures by the Ministry of Resettlement rose annually between 2007 and 2009, peaking in 2009, and were projected to decrease annually beginning in 2010. The ministry's actual and projected expenditure for this period, nearly \$166 billion, includes foreign financing, which accounts for around 30 percent of the ministry's total expenditure. The marked reduction in total expenditure beginning in 2010 is indicative of the government's stated position that it has successfully "re-settled" (returned) a vast majority of IDPs and is concluding what it views as extensive reconstruction and de-mining activities in the North.

In Uganda, the budget of the Peace, Recovery and Development Plan for Northern Uganda (PRDP) does not specifically earmark funds for IDP projects, but it does fund projects that benefit IDPs by improving conditions in return areas, including livelihood creation, improved social services, and access to health services. The government has committed itself to funding 30 percent of the overall cost of the PRDP and requested that the remaining 70 percent of PRDP costs be covered by development partners and international donors.<sup>17</sup>

In Yemen, although both federal and regional governments do allocate funds specifically for addressing internal displacement, their efforts fall far short of actual needs. Financial support is focused on reconstruction,

mostly through the Sa'ada Reconstruction Fund.<sup>18</sup> The government has allocated \$55 million toward reconstruction through the fund, yet most estimates agree that around \$190 million is required, while others suggest even more, especially considering recent reports of widespread destruction in Sa'ada Governorate.<sup>19</sup> Apart from failing to address most aspects of the physical and mental toll that the conflict has had on civilians, some accounts accuse the Sa'ada Reconstruction Fund of outright bias in its failure to assist Houthi allied areas.<sup>20</sup>

In several countries, including Colombia, Nepal and Uganda, difficulties arise at the district or municipal levels, where local authorities bear significant responsibility for addressing internal displacement but face many obstacles, including insufficient funds, to do so. And in Colombia, Georgia, Kenya and Yemen, there have been charges of corruption and misallocation of funds intended to benefit IDPs at certain points, though in some cases the problem has decreased in recent years.<sup>21</sup>

National budgetary support for IDPs seems especially low in both the Democratic Republic of the Congo (DRC) and Afghanistan, both of which rely particularly heavily on international resources to address IDPs' needs. Indeed, in the DRC, government authorities do not appear to give priority to internal displacement in allocating budgetary resources, which the RSG on IDPs Walter Kälin noted, along with the overall limited resources of the government.<sup>22</sup> The DRC government's

*Strategy and Main Challenges 2009–2010*, COM(2009) 533, 14 October 2009, p. 31 ([http://ec.europa.eu/enlargement/pdf/key\\_documents/2009/tr\\_rapport\\_2009\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2009/tr_rapport_2009_en.pdf)).

<sup>16</sup> See further the Sri Lanka case study in chapter 2 of this volume.

<sup>17</sup> Syda N. M. Bbumba, "Budget Speech Financial Year 2009/2010," delivered at the Meeting of the Fourth Session of the Eighth Parliament of Uganda, 11 June 2009, Ministry of Finance, Planning and Economic Development, Republic of Uganda ([www.mediacentre.go.ug/details.php?catId=2&item=446](http://www.mediacentre.go.ug/details.php?catId=2&item=446)).

<sup>18</sup> IDMC, *Yemen: IDPs Facing International Neglect*, August 2010 ([www.internal-displacement.org](http://www.internal-displacement.org)), p. 63.

<sup>19</sup> IRIN, "Yemen: Government Calls for International Support to Reconstruct War-Affected Areas," 18 September 2008 ([www.irinnews.org/report.aspx?ReportID=80455](http://www.irinnews.org/report.aspx?ReportID=80455)).

<sup>20</sup> IDMC, *Yemen: Constrained Response to Protection Needs of IDPs and Returnees*, July 2009, p. 104 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>21</sup> IRIN, "Analysis: Yemen's aid conundrum," 17 March 2010 ([www.irinnews.org/report.aspx?reportid=88451](http://www.irinnews.org/report.aspx?reportid=88451)).

<sup>22</sup> UN Human Rights Council, *Report Submitted by the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin—Addendum: Mission to the Democratic Republic of the*

inadequate provision of assistance to IDPs has also been noted in successive U.S. Department of State annual *Human Rights Reports* since 2006, in which it has been stated that “the government did not provide adequate protection or assistance to IDPs” and that IDPs had to rely “heavily” or “exclusively” on humanitarian organizations and that assistance was impeded by access problems and insecurity.<sup>23</sup>

Afghanistan reportedly allocated only \$3 million for refugees and IDPs for FY 2009–10.<sup>24</sup> A senior government adviser stated in January 2010 that “[w]hilst we have no budget for assistance to IDPs, we stress long-term and sustainable solutions.” He added that the Ministry of Refugees and Returnees was unable to provide IDPs with integration services and required assistance from donors, aid agencies and other government entities.<sup>25</sup> In 2009, 90 percent of Afghanistan’s public expenditures were funded by international sources.<sup>26</sup> In Iraq, which relies on oil revenues for nearly all of its income, the allocation for the Ministry of Displacement and Migration in the proposed 2010 budget was nearly \$170 million of a total budget of \$72 billion. The government reduced financial assistance for IDPs and returnees from \$212 million in 2008 to \$42 million in 2009. The government rejected the proposals of the parliamentary Committee on Displacement and Migration in 2008 to secure a separate budgetary allocation for IDPs and returnees either by allocating 3-5 percent of the country’s oil revenues or by setting aside \$2 billion. The government reportedly said that other issues took precedence, such as municipal services and security.<sup>27</sup>

Congo, A/HRC/8/6/Add.3, 16 May 2008, pp. 6, 10–11 ([www2.ohchr.org/english/issues/idp/visits.htm](http://www2.ohchr.org/english/issues/idp/visits.htm)).

<sup>23</sup> *Human Rights Reports* ([www.state.gov/g/drl/rls/hrrpt/index.htm](http://www.state.gov/g/drl/rls/hrrpt/index.htm)).

<sup>24</sup> Ministry of Finance, *1388 [2009] National Budget*.

<sup>25</sup> IRIN, “Afghanistan: More IDPs than Previously Thought: Government,” 4 January 2010 ([www.irinnews.org/Report.aspx?ReportId=87626](http://www.irinnews.org/Report.aspx?ReportId=87626)).

<sup>26</sup> Latest data available at the time of writing. IDMC, *Armed Conflict Forces Increasing Numbers of Afghans to Flee Their Homes*, April 2010 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>27</sup> IRIN, “Iraq: MP Calls for More IDP Funding,” 5 January 2010 ([www.irinnews.org/Report.aspx?ReportId=87632](http://www.irinnews.org/Report.aspx?ReportId=87632)).

In the case of Sudan, current information for the country as a whole was difficult to obtain, with the exception of recent data on Southern Sudan. In 2003, state funding for the protection and return of IDP populations had been criticized as inadequate, with the government spending the “largest [portion of its] budget on security and military operations for political repression,” according to the Cairo-based Sudan Human Rights Organization, though specific data were not given.<sup>28</sup>

The government of Southern Sudan prepared a \$25 million budget to assist IDPs currently residing in the North to return to the South before the January 2011 referendum on whether Southern Sudan should secede from the North.<sup>29</sup> The government also allocated an additional 10 million Sudanese dinars (\$40,000) in FY 2010 to the Southern Sudan Relief and Rehabilitation Commission for the return of refugees and IDPs.<sup>30</sup> Oil revenue accounts for around 98 percent of the government’s estimated \$1.9 billion budget. In his July 2010 report to the UN Security Council, the UN Secretary-General noted that “the United Nations country team has stepped up its advocacy for greater investment by the Government in the social and human development areas, addressing both the national Government and the Government of Southern Sudan.”<sup>31</sup>

<sup>28</sup> Sudan Human Rights Organization, “On the Removal of Women Travel Ban,” press release, 22 November 2003 ([www.shro-cairo.org/pressreleases/03/november03/womentravelban.htm](http://www.shro-cairo.org/pressreleases/03/november03/womentravelban.htm)).

<sup>29</sup> Refugees International, “Statement by Refugees International on the Government of Southern Sudan’s Mass Repatriation Plans,” 27 August 2010 ([www.refugeesinternational.org](http://www.refugeesinternational.org)).

<sup>30</sup> “2010 Budget Speech, Presented to the Southern Sudan Legislative Assembly by Minister of Finance and Economic Planning, Government of Southern Sudan, H. E. David Deng Athorbei,” 14 December 2009, para. 133 ([www.goss-online.org/magnoliaPublic/.../2010%20Budget%20Speech.pdf](http://www.goss-online.org/magnoliaPublic/.../2010%20Budget%20Speech.pdf)).

<sup>31</sup> UN Security Council, *Report of the Secretary-General on the Sudan*, 19 July 2010, S/2010/388, para 66, p. 13 ([www.un.org/Docs/sc/sgrep10.htm](http://www.un.org/Docs/sc/sgrep10.htm)).

## Conclusion

As indicated in the introduction to this benchmark, collecting data on government allocation of resources for IDPs has been very challenging. Information is not easily available, and even if data can be obtained, it is difficult to get a comprehensive and accurate picture of the amount of resources allocated to, much less actually spent on, addressing internal displacement. In some of the cases, a certain amount of budget analysis on internal displacement has been undertaken. In Colombia, the Constitutional Court plays a key role in this regard, with its monitoring and critiques of inadequate resources having resulted in a significant increase in the amount of money devoted by the government to the IDP issue. In Georgia, a certain amount of budget analysis on internal displacement is undertaken by NGOs, namely by Transparency International. Both examples suggest that national actors are perhaps the best placed to undertake budget monitoring and analysis.

Systematic data collection and analysis is needed for all of the countries surveyed—and for all countries experiencing internal displacement—and thus is an area

recommended for further research. Tools and technical guidance on human rights budget analysis are available.<sup>32</sup> Data collection and analysis on this issue also should be undertaken by relevant international actors—for instance, by development actors including UNDP as part of its governance support and international financial institutions as well as by the human rights treaty monitoring bodies in their periodic assessments of a government's record. After all, the less the allocation of national resources to address internal displacement, the greater the demand on the international community to make up the shortfall. Conversely, governments that progressively increase resource allocations to the issue should be encouraged and supported, including through international resource mobilization efforts.

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<sup>32</sup> See, for example, *Dignity Counts: A Guide to Using Budget Analysis to Advance Human Rights* (International Budget Partnership, 2004) ([www.internationalbudget.org/library/publications/index.cfm?fa=view&id=3377/](http://www.internationalbudget.org/library/publications/index.cfm?fa=view&id=3377/)). Generally, see *Selected Resources on Public Finances and Human Rights*, compiled by Deutsche Gesellschaft für Internationale Zusammenarbeit for the project “Realizing Human Rights in Development Cooperation” January 2011 ([www.gtz.de/human-rights/](http://www.gtz.de/human-rights/)).



Sangar, Sindh Province, Pakistan / Kwel A., a mother of seven, lost her house in the floods.  
Photo: UNHCR/ S. Phelps / October 2011

## Benchmark 12

### Cooperation with International and Regional Organizations

#### ***Does the government facilitate efforts by international organizations to address internal displacement?***

When a government does not have the capacity to protect and assist IDPs within its territory, it has a responsibility to seek external assistance, including financial support, operational assistance, and technical expertise. International law does not explicitly provide for the right of IDPs to humanitarian assistance except during international armed conflicts, when civilians in occupied territories have the right to directly solicit and receive humanitarian assistance from international humanitarian organizations.

In all situations of armed conflict, parties to the conflict are entitled to conduct controls of humanitarian relief but they must allow and facilitate the rapid and unhindered passage of humanitarian assistance to civilians in need; moreover, assistance must be provided impartially, without adverse distinction. Parties to conflicts must also ensure authorized humanitarian relief workers' freedom of movement, which is essential to the exercise of their functions, subject only to temporary restrictions on the basis of military necessity. Parties to conflicts must also protect humanitarian personnel, goods, and equipment from attack and ensure that relief is not diverted from its intended beneficiaries.<sup>1</sup>

The prohibition of arbitrary denial of humanitarian access is the key element of Guiding Principle 25:

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<sup>1</sup> On the obligations discussed in this paragraph, see Fourth Geneva Convention, Articles 23 and 59; First Additional Protocol to the Geneva Conventions, Articles 70 and 71; Second Additional Protocol to the Geneva Conventions, Article 18; International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1, *Rules*, Rule 55 and Rule 56.

international humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a state's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.<sup>2</sup>

The Guiding Principles go on to say that authorities "shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced." At the same time, the Guiding Principles emphasize that international actors have a responsibility to abide by humanitarian principles and international standards. Countries' cooperation with the international community takes different forms, as detailed in the below analysis.

### Overview of Research Findings

The most common form of cooperation with the international community is for governments to solicit and accept financial assistance and operational engagement from donor governments and humanitarian organizations. In all of the cases surveyed, such cooperation has, to varying extents, been evident in addressing internal displacement. When displacement becomes protracted—as it has in most of the countries surveyed here—there is further need for the participation of development organizations. However, the transition from humanitarian to development assistance is not automatic or swift, and there are significant gaps between the two in several of the countries. For example, although the Ugandan government has developed a comprehensive approach to supporting reconstruction and IDP

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<sup>2</sup> UN Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, 1998 ([www.brookings.edu/projects/idp/gp\\_page.aspx](http://www.brookings.edu/projects/idp/gp_page.aspx)).

return efforts in its Peace, Recovery and Development Plan for Northern Uganda, development actors have not yet fully engaged to support the plan.<sup>3</sup>

An important way of demonstrating openness to the international community on IDP issues in particular is to invite the Representative of the UN Secretary-General on the Human Rights of IDPs (RSG on IDPs) to visit the country. The RSG on IDPs has visited all of the fifteen countries included in this report except for Myanmar and Pakistan and has made multiple visits to most countries.<sup>4</sup> As noted in the introduction to this study, the visits by the RSG have proven to be valuable in raising national awareness of internal displacement and the protection needs of IDPs; assessing the national and international responses and making recommendations for their improvement; and providing support to governments and to international actors to enable them to take concrete steps to protect the rights of IDPs. For instance, in the Central African Republic, Kenya and Yemen, the RSG has been invited to provide expertise in drafting those countries' national laws or policies on internal displacement.

Turkey is an example of significant change over time in the government's openness to international cooperation on internal displacement. Throughout the 1990s, the government denied the existence of internal displacement and rebuffed all requests, including by the RSG, to engage on the issue.<sup>5</sup> However, when the government, under pressure from the European Union, finally agreed to open its doors to the RSG in 2002, that led to a change in national policy and, more belatedly, to engagement by international actors when RSG Deng called on the

government to explore areas of cooperation with international agencies. At the same time, Deng also called on the United Nations to expand its support to the government vis-à-vis IDPs.

An especially important way of engaging with the international humanitarian community is through participation in the cluster system, which has become the standard way of organizing the international response to emergency situations. The UN cluster system provides a means through which international and local actors can share information on and coordinate their activities. Adopted in late 2005, the cluster approach was piloted in a handful of countries, including the Democratic Republic of the Congo and Uganda, in 2006; it now is applied to every new humanitarian emergency for which a UN humanitarian coordinator is appointed. The cluster approach has been applied in all of the countries surveyed by this study with the exception of Turkey, and in several cases (Afghanistan, the Central African Republic, Colombia, the Democratic Republic of the Congo, Nepal, Somalia, Sudan, Uganda and Yemen), it is still applied today.

The clusters are intended to support national governments' efforts to address humanitarian concerns; however, in practice, the level of national government involvement in the clusters has varied significantly. In one of the cases reviewed in this study, Kenya, the government ensured that it had a leadership role in the cluster system. In 2008 the clusters were reviewed and refocused to enable stronger Kenyan government leadership, and government ministries took over as the chairs of the clusters. In Uganda, leadership of the protection cluster has been handed over to the Ugandan Human Rights Commission. In the Central African Republic, the government, specifically the National Standing Committee (which is charged with relating to international actors), participates in protection cluster meetings. In Georgia, the cluster approach was introduced at the outbreak of new conflict in August 2008, with the government as co-chair; by the spring of 2009, the clusters had been replaced by government-run coordination mechanisms, in which the international community participated. A

<sup>3</sup> Internal Displacement Monitoring Centre (IDMC), *Uganda: Returns Outpace Recovery Planning: A Profile of the Internal Displacement Situation*, 19 August 2009 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>4</sup> For a list of all country missions undertaken by the RSG on IDPs, see the website of the Office of the High Commissioner for Human Rights ([www.ohchr.org](http://www.ohchr.org)).

<sup>5</sup> Bill Frelick and Virginia Hamilton, *The Wall of Denial: Internal Displacement in Turkey* (Washington, D.C.: U.S. Committee for Refugees, 1999).

similar transformation took place, at government insistence, in Pakistan in spring 2011. In Nepal, the cluster approach was introduced in September 2008 following the displacement caused by the flooding of the Koshi River. The protection cluster, led by Office of the High Commissioner for Human Rights, “still struggled to involve the government” during 2010.<sup>6</sup> The cluster approach also has been used in Myanmar, but the extent of government participation is unknown.

In some cases, the government cooperates with UN peacekeeping operations to provide security to civilians, including IDPs, affected by violence. For example, a European Union peacekeeping mission with a UN civilian component, the UN Mission in the Central African Republic and Chad (MINURCAT), was approved by the UN Security Council in 2007 for deployment to Chad and the Central African Republic.<sup>7</sup> In the Central African Republic, MINURCAT’s mandate included

creat[ing] security conditions conducive to a voluntary secure and sustainable return of refugees and displaced persons and civilians in danger, by facilitating the provision of humanitarian assistance . . . and by creating favourable conditions for the reconstruction and economic and social development of those areas.<sup>8</sup>

Efforts to promote reconciliation and address the causes of conflict are another area in which international support can be sought. For example, in Kenya, investigative commissions such as the Commission of Inquiry into the Post-Election Violence (Waki Commission) and the Independent Review Commission on the General Elections Held in Kenya on 27 December 2007 (Kriegler Commission) were formed after the political crisis that engulfed Kenya after the 2007 disputed election results

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<sup>6</sup> IDMC, *Internal Displacement: Global Overview of Trends and Developments in 2010*, p. 92, March 2011 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>7</sup> UN Security Council, Resolution 1778 (2007), S/RES/1778(2007), 25 September 2007 (<http://unbisnet.un.org>).

<sup>8</sup> Ibid.

and have employed international expertise. In addition, reform commissions including the Committee of Experts on Constitution Review; the Truth, Justice and Reconciliation Commission; and the Task Force on Police Reforms also sought technical expertise from the international community.

A government’s readiness to fulfill its responsibility to provide safe and unimpeded access of humanitarian actors to affected communities when the government alone cannot address the population’s needs often varies over time. The government of Sudan has often impeded humanitarian access, in word and more often in deed. For instance, on various occasions the government has expressed official commitment to allowing access while imposing bureaucratic delays and obstacles to, for example, the issuance of visas; on many other occasions, humanitarian workers from several agencies have been declared “persona non grata” and denied permission to operate in the country. The bureaucratic obstacles and access restrictions in Sri Lanka, particularly the severe limitations on humanitarian access to the North of the country, have greatly limited humanitarian aid. In 2008, the government ordered the withdrawal of agencies from the North. The government of the Central African Republic has historically given humanitarian organizations unimpeded access to displaced communities throughout the country, including in areas outside of state control;<sup>9</sup> in March 2009, however, it did temporarily deny access to areas controlled by armed groups in the north, accusing aid workers of providing indirect support to the groups.<sup>10</sup>

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<sup>9</sup> IDMC, *Central African Republic: New Displacement Due to Ongoing Conflict and Banditry*, December 2009, ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>10</sup> U.S. State Department, 2009 *Human Rights Report: Central African Republic* ([www.state.gov/g/drl/rls/hrrpt/2009/af/135944.htm](http://www.state.gov/g/drl/rls/hrrpt/2009/af/135944.htm)). RSG Kälin also stated in his 2010 report to the General Assembly (covering the major activities that he undertook from August 2009 to July 2010) that he “was also deeply concerned that humanitarian access to several regions in the country was severely restricted owing to security reasons. However, he was encouraged by the lifting of military restrictions on humanitarian access to areas outside and around Ndélé at the end of his visit.” Citation in UN General Assembly, *Report of*

Insecurity limits access by international agencies in countries such as Afghanistan, the Central African Republic and Pakistan (see discussion below). In Colombia, humanitarian access is satisfactory in towns and cities to which IDPs have fled, but the intensity of fighting in rural areas and transportation challenges prevent many organizations from accessing newly displaced populations.<sup>11</sup> Moreover, when Walter Kälin, the RSG of IDPs, visited in 1999, he was unable to visit IDPs in areas controlled by nonstate actors. While permission for such a visit had been negotiated on site by the RSG with the president, in practice the visit was impeded, reportedly due to time and logistics constraints. U.S. Department of State reports covering 2007 through 2009 reported that the government of the Democratic Republic of the Congo “generally allowed” national and international assistance to IDPs, adding that access and insecurity “impeded their efforts.”<sup>12</sup>

The government of Georgia has long had a policy of allowing the United Nations and other international partners to access Abkhazia and South Ossetia, which have been out of effective state control since the early 1990s, and to engage with the de facto authorities, including on IDP issues. The de facto authorities of Abkhazia and South Ossetia generally mirrored Georgia’s cooperation. However, humanitarian access to both regions has been seriously restricted by all parties since the 2008 conflict. This is especially the case in South Ossetia, where the de facto authorities have barred access to the region through Georgia and insisted instead on access through the Russian Federation, which the government of Georgia does not accept. For example, when the RSG visited South Ossetia in 2009, he was required to enter the region through the territory of the Russian Federation, a route

that nonetheless was taken with the prior knowledge and acquiescence of the Georgian government.

Since the mid-1990s UNHCR and the Organization for Security and Co-operation in Europe maintained a field presence in both regions, where there also have been peacekeeping missions over the same period.<sup>13</sup> However, OSCE’s mission throughout Georgia was forced to close in June 2009 and the UN peacekeeping mission in Abkhazia ended in July 2009, in both cases due to a veto by Russia for the continuation of the missions. And while UNHCR has maintained a field presence in Abkhazia, South Ossetia has remained closed to UNHCR and to the UN as a whole since August 2008. Meanwhile, the Georgian government passed the Law on Occupied Territories of Georgia, which limits access to each region through only one access point in Georgia proper and upon formal authorization of the central government.<sup>14</sup> Neither the United Nations nor the Organization for Security and Co-operation in Europe has, to this day, been permitted to re-establish its long-standing presence in South Ossetia.

In Nepal, after the signing of the Comprehensive Peace Accord in 2006, humanitarian access greatly improved. However, since 2009 there have been reports of constriction of humanitarian space, with access restricted; extortion directed at humanitarian agencies; and strikes that have prevented and delayed the distribution of aid in some instances.<sup>15</sup>

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*the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons*, A/65/282, 11 August 2010, para. 17 ([http://ap.ohchr.org/documents/dpage\\_e.aspx?m=71](http://ap.ohchr.org/documents/dpage_e.aspx?m=71)).

<sup>11</sup> IDMC, *Colombia: New Displacement Continues, Response Still Ineffective: A Profile of the Internal Displacement Situation*, 3 July 2009 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>12</sup> U.S. Department of State, *Human Rights Reports* ([www.state.gov/g/drl/rls/hrrpt/index.htm](http://www.state.gov/g/drl/rls/hrrpt/index.htm)).

<sup>13</sup> The UN Observer Mission in Georgia, composed of unarmed UN military observers, has operated in Abkhazia and in Georgia proper since 1994; in South Ossetia, the Joint Control Commission (JCC), composed of representatives from Georgia, the Russian Federation, North Ossetia (in the Russian Federation) and South Ossetia (in Georgia proper) was put in place in 1992 to monitor the cease-fire.

<sup>14</sup> Law on Occupied Territories of Georgia, adopted by Parliament on 23 October 2008 and signed by the president of Georgia on 31 October 2008.

<sup>15</sup> OCHA, *Nepal 2010: Humanitarian Transition Appeal* (<http://ochaonline.un.org/humanitarianappeal/webpage.asp?Page=1888>); IDP Working Group, *Distant from Durable Solutions: Conflict-Induced Internal Displacement*



Problems with access to conflict areas and wider insecurity have curtailed humanitarian operations dealing with conflict-induced displacement. In Pakistan, following large-scale displacement in 2009 due to counterinsurgency operations, the government allowed some humanitarian access but barred access to the IDP populations most in need—those located in or near battle areas or in closed military areas, for example—citing security concerns. The government also had blocked humanitarian access to IDPs, prior to 2009, for example, in Waziristan and Balochistan. In addition, the government expelled the International Committee of the Red Cross from the Swat district in July 2009, in part because the organization, in keeping with its principles of independence and neutrality, insisted on conducting its own assessments independently. Attacks on humanitarian workers have also curtailed assistance to IDPs.<sup>16</sup> With respect to disaster-affected IDPs, it was encouraging that the government eased visa restrictions for international humanitarian workers to facilitate the response to the 2010 flood crisis.<sup>17</sup>

Myanmar, it is fair to say, has a troubled history with the United Nations and with ensuring humanitarian access. But while humanitarian access has been problematic, it is because the government has denied the existence of conflict-affected IDPs and restricts access of UN and international nongovernmental organizations to conflict areas. The international community has repeatedly called on the government to loosen its tight control of

humanitarian access. For years, the United Nations has called on the government to allow international humanitarian organizations (INGOs) and their partners safe and full access, including in particular ensuring assistance for the return and reintegration of refugees and for humanitarian assistance to IDPs.<sup>18</sup>

In 2010 UNHCR secured a two-year agreement with the government to provide services to conflict-affected populations in the southeast. Local, national and international organizations employ a cautious approach in engaging in humanitarian efforts, and civil society organizations must maintain a low profile in their work and in their partnership with international organizations to avoid retribution from authorities. INGOs serving conflict-affected populations also must maintain a low profile, relying largely on national staff. In some cases, international humanitarian organizations have been able to reach IDPs in the conflict-affected southeast either directly or by partnering with local community-based organizations.<sup>19</sup>

When Cyclone Nargis struck Myanmar in May 2008, initially the government launched a poor and inadequate response and refused access to foreign relief workers. Nargis claimed 138,000 lives and affected 2.4 million people, demanding a robust response from this poor country. While the government of Myanmar called for international aid three days after the cyclone struck, it preferred bilateral aid distributed through its own agencies and stated that it would not accept foreign aid workers. The government did not enforce

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*in Nepal*, June 2009 ([www.internal-displacement.org](http://www.internal-displacement.org)); OCHA, *Nepal Situation Overview*, no. 50, June 2009 ([reliefweb.int/node/315596](http://reliefweb.int/node/315596)).

<sup>16</sup> IDMC, *Pakistan: Displacement Ongoing in a Number of Regions*, 15 May 2008 ([www.internal-displacement.org](http://www.internal-displacement.org)); Helen Nic an Rí and Caitlin Brady, “Protection through Partnership: Lessons Learnt from Pakistan’s Displacement Crisis,” *Humanitarian Exchange Magazine*, Overseas Development Institute, no. 46, March 2010 ([www.odihpn.org/report.asp?id=3103](http://www.odihpn.org/report.asp?id=3103)); Amnesty International, *As If Hell Fell on Me: The Human Rights Crisis in Northwest Pakistan*, June 2010, p. 78 ([www.amnesty.org](http://www.amnesty.org)).

<sup>17</sup> Except for Indians and Israelis. *The Hindu*, “Pakistan Eases Visa Regime Except for Indians,” 23 August 2010 ([www.thehindu.com/news/international/article590015.ece](http://www.thehindu.com/news/international/article590015.ece)).

<sup>18</sup> See for example, the following UN General Assembly resolutions: A/RES/65/241, 21 March 2011; A/C.3/64/L.36, 29 October 2009; A/RES/59/263, 17 March 2005; and A/RES/56/231, 28 February 2002.

<sup>19</sup> UNHCR, *UNHCR Global Appeal 2011 (Update): Myanmar*, December 2010 ([www.unhcr.org](http://www.unhcr.org)); Transnational Institute and Burma Centrum Netherlands, *Burma’s Longest War: Anatomy of the Karen Conflict*, March 2011 ([www.tni.org/briefing/burmas-longest-war-anatomy-karen-conflict](http://www.tni.org/briefing/burmas-longest-war-anatomy-karen-conflict)). Ashley South, “Humanitarian Aid to IDPs in Burma: Activities and Debates,” *Forced Migration Review: Burma’s Displaced People*, no. 30, April 2008, pp. 17–18 ([www.fmreview.org](http://www.fmreview.org)).

its distribution requirement, however. The government's ad hoc, inconsistent approach to managing the crisis—characterized by bureaucratic red tape and other procedural obstacles, such as conflicting directives from different authorities— inhibited the effective and timely distribution of international humanitarian aid.<sup>20</sup> Following strong external pressure, particularly from the Association of Southeast Asian Nations, the government eventually lifted restrictions on disaster relief teams from UN agencies, bilateral government agencies, and international NGOs, allowing access to the cyclone-affected area in the Irrawaddy Delta region.<sup>21</sup>

As in Myanmar, in Sri Lanka the government has restricted international humanitarian assistance and created bureaucratic hurdles curtailing access and assistance. As discussed further in the extended case study, humanitarian access to and within the country, especially in the North, has often been restricted or even denied through administrative obstacles and the government's outright ordering of the withdrawal of humanitarian agencies.<sup>22</sup> Senior government officials have gone as far as accusing UN and other international agencies of being supporters or sympathizers of the Liberation Tigers of Tamil Eelam. IDPs have largely borne the brunt of the aid restrictions.<sup>23</sup> In addition, since 2006, humanitarian aid workers have increasingly become a target of violent attacks.<sup>24</sup>

The situation in Sudan has been one of the most complicated in the world in terms of both access and security for humanitarian workers. While the government has allowed international organizations to work in Sudan, it has limited their access in various ways, including by creating bureaucratic obstacles and failing to guarantee the security of humanitarian operations. The result has been increasing attacks on humanitarian aid workers, especially in Darfur, impeding the delivery of aid even as the humanitarian needs of IDPs and other affected populations increased.<sup>25</sup> In March 2007, the government of Sudan and the United Nations signed the Joint Communiqué on Facilitation of Humanitarian Activities in Darfur. In the communiqué, the Sudanese government reaffirmed "its commitment to continue to support, protect and facilitate all humanitarian operations in Darfur," including by fast-tracking the documents that international nongovernmental organizations require to operate.<sup>26</sup> This so-called Moratorium on Restrictions was extended by President Omar al-Bashir to January 2010.<sup>27</sup>

According to the UN, following President al-Bashir's March 2009 indictment by the International Criminal Court for war crimes and crimes against humanity, government-imposed restrictions on aid in Darfur increased. On 4 March 2009, the court issued its first arrest warrant for al-Bashir, which coincided with a wave of international aid worker kidnappings in

<sup>20</sup> ICG, *Burma/Myanmar after Nargis: Time to Normalise Aid Relations*, Asia Report No. 161–20 October 2008, pp. 3–4 ([www.crisisgroup.org](http://www.crisisgroup.org)).

<sup>21</sup> Elizabeth Ferris and Lex Rieffel, "Cyclone Nargis: Catalyst for Change in Myanmar?" Brookings Institution, 16 May 2008 ([www.brookings.edu/opinions/2008/0516\\_myanmar\\_ferris.aspx](http://www.brookings.edu/opinions/2008/0516_myanmar_ferris.aspx)); ODI–Humanitarian Practice Network, *Negotiating Humanitarian Access to Cyclone-Affected Areas of Myanmar: A Review*, 31 December 2008 ([www.odihpn.org](http://www.odihpn.org)).

<sup>22</sup> See chapter 2 of this volume.

<sup>23</sup> Amnesty International, *Stop the War on Civilians in Sri Lanka: A Briefing on the Humanitarian Crisis and Lack of Human Rights Protection*, 15 March 2009 ([www.amnesty.org](http://www.amnesty.org)).

<sup>24</sup> Center for Policy Alternatives, *Trincomalee High Security Zone and Special Economic Zone*, 7 September 2009 ([\[transcurrents.com/tc/Trincomalee\\\_HSZ\\\_SEZ.pdf\]\(http://transcurrents.com/tc/Trincomalee\_HSZ\_SEZ.pdf\)\).](http://</a></p>
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<sup>25</sup> See, for example, Overseas Development Institute, *Humanitarian Issues in Darfur, Sudan*, Humanitarian Policy Group Briefing Note, April 2004 ([www.odi.org.uk](http://www.odi.org.uk)); IDMC, *Sudan: Slow IDP Return to South While Darfur Crisis Continues Unabated*, August 2006 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>26</sup> Joint Communiqué between the Government of Sudan and the United Nations on Facilitation of Humanitarian Activities in Darfur, 2007, para. 1 (<http://ocha-gwapps1.unog.ch/rw/rwb.nsf/db900SID/SNAA-7Q2554?OpenDocument>).

<sup>27</sup> UN Resident and Humanitarian Coordinator, "Darfur Humanitarian Profile No. 34," 1 January 2009 ([www.unsudanig.org](http://www.unsudanig.org)).

Darfur.<sup>28</sup> Immediately after the warrant was issued, the Sudanese government revoked the operating licenses of thirteen INGOs and disbanded three national NGOs in Darfur,<sup>29</sup> accusing them of spying for the court and passing on information about crimes committed in Darfur.<sup>30</sup> Some 40 percent of the total aid workers in northern Sudan—which had managed over half of the total humanitarian aid delivered to northern Sudan, including the eastern states and the Three Areas—were directly affected by the expulsions.<sup>31</sup> The expulsion threatened to severely obstruct the delivery of health services to 1.5 million people, water and sanitation to 1.16 million and food aid to 1.1 million people—many of them IDPs. In June 2009, three of the expelled NGOs—CARE, Mercy Corps, Save the Children and the expelled development firm, Planning and Development Collaborative International (PADCO) resumed operations in Darfur by registering under different names and logos. The announcement by UN Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator John Holmes that the NGOs had been allowed to “return” to Darfur sparked a sharply negative response from the Sudanese government, which asserted that Sudan was hosting new NGOs with new names and logos, not allowing the expelled organizations to return.<sup>32</sup> Since then there

have been spikes in attacks on humanitarian workers in Darfur. Darfur has been a dangerous operating environment not only for humanitarian actors, but also for other UN personnel. As of June 2011, ninety UN–African Union Mission in Darfur personnel had been killed since the mission began in 2008.<sup>33</sup>

While historically the government of Yemen has blocked access to displaced populations and impeded the work of humanitarian organizations during the conflict, following the February 2010 cease-fire agreement for the north of the country, it began to permit international agencies more access to facilitate the delivery of aid, albeit with limitations. The government reportedly was worried that aid would fall into rebel hands.<sup>34</sup> Aid agencies granted access to conflict-affected regions have faced significant insecurity, which has consistently undermined and at times required them to suspend their activities.<sup>35</sup> Renewed armed conflict in late 2010 rendered humanitarian access very challenging, with UN reporting severe access restrictions in the governorates of Sa’ada and Al Jawf in the north, particularly for international staff.<sup>36</sup> Ongoing hostilities and access restrictions, in addition to attacks on international NGO personnel and assets, were also reported in 2011 in the northern governorates

<sup>28</sup> “Darfur One Year after NGOs Expelled,” Radio Netherlands Worldwide, 4 March 2010 ([www.rnw.nl/international-justice/article/darfur-one-year-after-ngos-expelled](http://www.rnw.nl/international-justice/article/darfur-one-year-after-ngos-expelled)).

<sup>29</sup> UN Security Council, *Report of the Secretary-General on the Sudan*, S/2009/211, 17 April 2009, para. 50.

<sup>30</sup> “Sudan Expels NGOs, Defies Hague Court,” *Mail and Guardian*, 5 March 2009 ([www.mg.co.za/article/2009-03-05-sudan-expels-ngos-defies-hague-court](http://www.mg.co.za/article/2009-03-05-sudan-expels-ngos-defies-hague-court)); “Darfur One Year after NGOs Expelled,” Radio Netherlands Worldwide.

<sup>31</sup> Humanitarian Policy Group, ALNAP, “Where to Now? Agency Expulsions in Sudan: Consequences and Next Steps,” 26 March 2009 ([www.odi.org.uk](http://www.odi.org.uk)); IRIN, “Sudan: Expulsions Leave Gaps in Three Areas, Eastern Region,” 31 March 2009 ([www.irinnews.org/Report.aspx?ReportId=83708](http://www.irinnews.org/Report.aspx?ReportId=83708)).

<sup>32</sup> BBC, “Sudan Allows Aid Agencies Back,” 12 June 2009 (<http://news.bbc.co.uk/2/hi/africa/8096214.stm>); Michael Kleinman, “Tough Choices for Agencies Expelled from Darfur,” Humanitarian Practice Network, Overseas Development Initiative, 6 May 2009 ([www.odihpn.org/](http://www.odihpn.org/)

[report.asp?id=2998](http://report.asp?id=2998)); VOA News, “Sudan Denies Some Expelled NGOs Returning,” 11 June 2009 ([www1.voanews.com/english/news/a-13-2009-06-11-voa52-68802962.html](http://www1.voanews.com/english/news/a-13-2009-06-11-voa52-68802962.html)); ENews, “Sudan Denies Expelled Aid Groups Allowed to Return,” 14 June 2009 ([www.eneews.ma/sudan-denies\\_i133254\\_1.html](http://www.eneews.ma/sudan-denies_i133254_1.html)).

<sup>33</sup> UN African Union Mission in Darfur, “UNAMID Facts and Figures” ([www.un.org/en/peacekeeping/missions/unamid/facts.shtml](http://www.un.org/en/peacekeeping/missions/unamid/facts.shtml)).

<sup>34</sup> Human Rights Watch, “All Quiet on the Northern Front?” March 2010, p. 51 ([www.hrw.org/en/reports/2010/04/07/all-quiet-northern-front-0](http://www.hrw.org/en/reports/2010/04/07/all-quiet-northern-front-0)).

<sup>35</sup> IDMC, *Yemen: Constrained Response to Protection Needs of IDPs and Returnees*, July 2009, p. 113 ([www.internal-displacement.org](http://www.internal-displacement.org)).

<sup>36</sup> See, for example, OCHA, *Yemen: 2011 Humanitarian Response Plan* (<http://reliefweb.int>).

of Hajjah, Al-Jawf, Amran and Sa'ada, disrupting the delivery of humanitarian assistance to IDPs and other conflict-affected populations.<sup>37</sup>

## Conclusion

All of the countries surveyed for this study have engaged with international organizations and actors. Almost all have invited the RSG on IDPs to visit and have welcomed advice and technical expertise in dealing with complex displacement situations. All have accepted the offers of international humanitarian organizations to provide assistance or support to IDPs within their territory (or in the case of Turkey, development actors). Some have worked with peacekeeping missions to enhance protection of civilians. To varying degrees, governments have facilitated access by international actors to affected communities. However, restrictions on access to IDPs remain a serious challenge. In some cases, it is outright denial of access, whether to IDPs in general (for example, as in Turkey for many years) or to certain groups

of IDPs (for example, in Myanmar, engagement with the international community is extremely limited, if not nonexistent, with respect to conflict-induced IDPs, but some cooperation has occurred with respect to those displaced by disasters). In other cases, permission is formally granted but denied in practice— for instance, through bureaucratic delays and restrictions in terms of travel documents. Often there also are political obstacles, namely that the government does not have effective control over certain parts of its territory. Even then, however, a government should be expected to allow international humanitarian access to those areas, as Georgia and, at times, Sri Lanka has done. In such cases, access also depends on the attitude of the non-state authorities that do control the areas, which also have responsibilities under international humanitarian law, as stated in Guiding Principle 25, to allow safe and unimpeded international humanitarian access to IDPs.

And yet, access is a practical requirement to do much of what is required to assist, protect and secure solutions for IDPs. Therefore, in cases in which government capacity or will is inadequate to mount an effective response to internal displacement—which include many if not most cases—the importance of the benchmark regarding cooperation with international humanitarian organizations cannot be overstated.

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<sup>37</sup> OCHA, *Yemen: Northern Governorates (Hajjah, Al-Jawf, Amran and Sa'ada): Humanitarian Access Report*, Cumulative January and February 2011 (<http://reliefweb.int>).