

EXECUTIVE SUMMARY

It is a central tenet of international law that states bear the primary duty and responsibility to protect the fundamental rights and freedoms of persons within their borders, including the internally displaced. While internally displaced persons (IDPs) remain entitled to the full protection of rights and freedoms available to the population in general, they face vulnerabilities that nondisplaced persons do not face. Therefore, in order to ensure that IDPs are not deprived of their human rights and are treated equally with respect to nondisplaced citizens, states are obligated to provide special measures of protection and assistance to IDPs that correspond to their particular vulnerabilities. Reflecting these key notions of international law, the rights of IDPs and obligations of states are set forth in the Guiding Principles on Internal Displacement (hereafter, “the Guiding Principles”).

Using the Guiding Principles as a departure for analysis, this study examines government response to internal displacement in fifteen of the twenty countries most affected by internal displacement due to conflict, generalized violence and human rights violations: Afghanistan, the Central African Republic, Colombia, the Democratic Republic of the Congo, Georgia, Iraq, Kenya, Myanmar, Pakistan, Nepal, Sri Lanka, Sudan, Turkey, Uganda and Yemen. The analysis seeks to shed light on how and to what extent, if any, governments are fulfilling their responsibility toward IDPs, with a view to providing guidance to governments in such efforts. In so doing, this study also seeks to contribute to research and understanding regarding realization of the emerging norm of the “Responsibility to Protect.” To frame the analysis, the introduction to this volume examines the connections among the concepts of national responsibility, “sovereignty as responsibility” and the “Responsibility to Protect” (R2P).

The comparative analysis across the fifteen countries, presented in chapter 1, is based on a systematic application of the document *Addressing Internal Displacement: A Framework for National Responsibility* (hereafter, “Framework for National Responsibility,” “the

Framework”). Seeking to distill the Guiding Principles, the Framework outlines twelve practical steps (“benchmarks”) that states can take to directly contribute to the prevention, mitigation and resolution of internal displacement:

1. Prevent displacement and minimize its adverse effects.
2. Raise national awareness of the problem.
3. Collect data on the number and conditions of IDPs.
4. Support training on the rights of IDPs.
5. Create a legal framework for upholding the rights of IDPs.
6. Develop a national policy on internal displacement.
7. Designate an institutional focal point on IDPs.
8. Support national human rights institutions to integrate internal displacement into their work.
9. Ensure the participation of IDPs in decisionmaking.
10. Support durable solutions.
11. Allocate adequate resources to the problem.
12. Cooperate with the international community when national capacity is insufficient.

Although the Framework has been used extensively in training and awareness-raising since it was developed by the Brookings-Bern Project on Internal Displacement in 2005, this is the first time it has been used as an assessment tool.

The study also includes four in-depth case studies in which the Framework is applied—Georgia, Kenya,

Afghanistan and Sri Lanka—which are presented in chapter 2. Three of these four countries count among those for which the doctrine of R2P has been invoked, whether by the UN formally, as in the case of Kenya, or, rightly or wrongly, by individual states (as in the case of Georgia) and by leading R2P advocates (in the case of Sri Lanka). For the most part, these case studies were based on interviews with in-country policymakers and practitioners. Chapter 3 draws on the analysis across the fifteen countries to provide overall observations as well as recommendations to governments that seek to protect and assist IDPs. The indicators developed for assessing each of the twelve benchmarks are provided as an annex to this volume.

Provided below are some of the key findings of this study. Further detail and analysis is provided in chapters 2 and 3.

—Prevention is paramount, but is probably the most difficult measure to take and the least likely to be taken in the countries assessed, which all had large IDP populations.

Given the scale of displacement in the fifteen countries surveyed, it was to be expected that these governments would not have been successful in preventing displacement. Nearly half of the fifteen countries assessed had adopted some preventive measures on paper, but all fifteen have fallen short of actually preventing displacement in practice. Moreover, many national authorities themselves have been or are perpetrators of violence or human rights abuses that have led to displacement, and many states foster a culture of impunity for alleged perpetrators of serious human rights violations. Further, the presence of foreign military forces and/or nonstate armed actors limits the ability of many states to exercise full sovereignty over their territory and therefore to prevent the conditions that drive people into displacement. Some countries have taken steps to prevent displacement due to natural disasters or development but not due to conflict, indicating that the

former is perhaps less politically taboo and/or practically less difficult to implement than the latter.

—Government response is heavily influenced by politics. Internal displacement due to conflict derives from political issues, and all aspects of a government's response to it therefore are affected by political considerations, including, for example, acknowledgment of displacement, registration and collection of data on IDPs, ensuring the participation of IDPs in decision-making, assistance and protection offered to different (temporal) caseloads of IDPs, support for durable solutions, which durable solutions are supported, and the facilitation of efforts by international organizations to provide protection and assistance to IDPs.

—Sustained political attention by the highest authorities is a necessary, though not sufficient, condition for taking responsibility for IDPs. Nearly all of the governments surveyed, at least at some point, have exercised their responsibility to IDPs by acknowledging the existence of internal displacement and their responsibility to address it as a national priority, for example, by drawing attention to IDPs' plight. However, government efforts to raise awareness of internal displacement through public statements was not always a useful indicator of a government's commitment to upholding the fundamental human rights and freedoms of IDPs.

—Among the five countries with laws on or related to internal displacement, there were notable limitations to the scope of the laws and gaps in implementing them. Legislation was quite comprehensive in scope in at least two cases and was narrow in others, addressing specific rights of IDPs or a phase of displacement. 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. Laws on internal displacement must be viewed in the context of other legislation and administrative acts applicable to the general population (e.g., those related to documentation, residency, housing, land and property, and personal status), which this study reviews to the extent possible, particularly in the case studies on Georgia, Kenya, Afghanistan and Sri Lanka. In Africa, the region with the most IDPs, states have recognized in legally binding instruments the importance of addressing internal displacement by incorporating the Guiding Principles on Internal Displacement into domestic legislation and policy.

—Many of the governments surveyed have adopted policies or action plans to respond to the needs of IDPs, but adequate implementation and dissemination were largely lacking.

Nine of the countries surveyed had developed a specific policy, strategy or plan on internal displacement, implemented to varying degrees; those in six of these countries were still active at the time of writing. In addition, at least two countries had national policies in draft form, and one country that does not recognize conflict-induced displacement had a plan for mitigating displacement by cyclones and a plan on disaster risk reduction, although it did not discuss displacement. While in some cases positive steps had been taken, by and large implementation of policies on internal displacement remains a challenge and has, in some cases, stalled. Available information indicates that efforts to raise awareness of IDP issues and policies have largely been inadequate.

—It is difficult to assess governments' commitment of financial resources to address internal displacement, but some trends were identified. Addressing internal displacement, especially over time, is a costly venture. While

it was difficult to obtain a full picture of a country's expenditure on IDPs, several countries allocated funds to assist IDPs, including a few that had no national laws or policies on IDPs. In at least two countries, funds for assisting IDPs seemed to diminish in recent years. In many countries, 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 doing so. Allegations of corruption and misallocation of funds intended to benefit IDPs at certain points has been observed in some of the countries assessed. Some countries seem to rely on international assistance to IDPs rather than national funds.

—National human rights institutions (NHRIs) contribute invaluable to improving national responses to internal displacement in a number of countries.

In recent years, an increasing number of NHRIs around the world have begun to integrate attention to internal displacement into their work. NHRIs 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 six of the countries surveyed 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 IDP issues.

—International actors are valuable resources for efforts aiming to improve government

response to IDPs. In many cases, the influence of the Representative of the UN Secretary-General on Internally Displaced Persons, the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons (both referred to hereafter as “RSG on IDPs”) and the UN Special Rapporteur on the Human Rights of Internally Displaced Persons (hereafter, “Special Rapporteur”) on governments was significant in encouraging and supporting governmental action on behalf of IDPs. In particular, RSG on IDPs Francis Deng and his successor Walter Kälin; Kälin’s successor, Special Rapporteur Chaloka Beyani; UNHCR; and the Brookings Project on Internal Displacement have provided technical assistance to support governments’ efforts to develop national legal frameworks to ensure IDPs’ access to their rights.

— **Durable solutions: Return was the durable solution most often supported by the governments assessed.** The Framework for National Responsibility identifies three durable solutions—return, local integration and settlement elsewhere in the country. However, the fifteen countries surveyed herein reflect a global tendency to emphasize return, often excluding the other durable solutions. 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. Especially in situations of protracted displacement, those may be the only feasible solutions, at least in the near future.

Overall, this research project has found that the Framework for National Responsibility is a valuable tool for analyzing government efforts to prevent displacement, to respond to IDPs’ needs for protection and assistance and to support durable solutions. But this study also reveals certain limitations to using the Framework as an assessment tool, particularly in terms of accounting for the responsibility of nonstate actors;

accounting for national responsibility for protection, particularly during displacement; and accounting for causes of displacement other than conflict, violence and human rights violations.

The most difficult benchmarks to analyze were those whose underlying concepts are very broad and those for which data were seemingly not publicly available. Chief among these were the benchmarks on preventing internal displacement (Benchmark 1), raising national awareness (Benchmark 2), promoting the participation of IDPs in decisionmaking (Benchmark 9), and allocating adequate resources (Benchmark 11). Analysis on all other benchmarks also faced data constraints as in many cases data were outdated or incomplete or simply were not available.

Nonetheless, we found that the twelve benchmarks all directed attention to important issues in governments’ responses to internal displacement.

We also found that while protection is central to the Framework, the issue is of such importance that there should be a benchmark explicitly focused on it—and specifically on protection as physical security, provided to IDPs during all phases of displacement. This benchmark would also underscore the responsibility of governments to protect the security of humanitarian workers engaged with IDPs. Beyond the more detailed findings presented in this study and the obligations of governments toward IDPs articulated in the Guiding Principles on Internal Displacement, this study offers the following six recommendations to political leaders seeking to translate their responsibility to IDPs into effective response:

- Make responding to internal displacement a political priority.
- Designate an institutional focal point with sufficient political clout to provide meaningful protection and assistance to IDPs.
- Develop and adopt laws and policies, or

amend existing ones, in line with the Guiding Principles on Internal Displacement by using as a guide the manual *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 and the Brookings-Bern Project on Internal Displacement.

—Devote adequate financial and human resources to address internal displacement.

—Support the work of national human rights institutions engaging in IDP issues.

—Ask for international assistance when it is necessary.

—Do not put off the search for durable solutions for IDPs—and involve IDPs in the process.

It is hoped that this study on the ways in which governments have exercised their national responsibility toward IDPs will inspire further research, provide some concrete examples of responsible action to governments seeking to protect and assist IDPs, and lead governments to more effectively exercise their responsibility toward IDPs.



Zugdidi, Georgia / Two boys rest in one of the annexed buildings for IDPs in the Zugdidi Hospital Center's collective center. Living conditions in the center are deplorable, with collapsed ceilings, a flooded basement that seeps water into the floorboards and unsanitary shared bathroom facilities. Photo: UNHCR/ P. Taggart / October 2008