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Project on Internal Displacement

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# **Mapping the Response to Internal Displacement: The Evolution of Normative Developments**

Front Cover Photograph: A Malian man remains on his land to take care of his belongings following floods in the capital city of Bamako on August 28, 2013. (International Organization for Migration / Julian Quintero, 2013)

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## FOREWORD

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These reports were prepared in my official capacity as United Nations Special Rapporteur for the Human Rights of Internally Displaced Persons. Versions of them were presented to UN General Assembly and to the UN Human Rights Council as part of the reporting requirements of my mandate. Publishing the reports in this format provides me with an opportunity share them with the broader public in order to highlight important thematic issues which are urgent for the lives of internally displaced person (IDPs). Thus I have focused on the state of normative developments on internal displacement, on climate change and displacement, on the particular needs of displaced women, on the challenges of protecting and assisting IDPs living in non-camp settings, and on the important role that development actors play in bringing about solutions for IDPs. By raising up these issues, my intention is to encourage governments, international actors and local civil society groups to consider how they can more effectively respond to the needs of IDPs.

In an effort to broaden the discussion of these issues, the Brookings-LSE Project on Internal Displacement has expanded on the issues raised in my official UN reports and to circulate them widely. Hence, I am delighted to introduce this report on normative developments on internal displacement. Since my original report to the General Assembly in 2012, I am more convinced than ever of the importance of addressing normative developments and hope that this report encourages more creative thinking on the issue.



Chaloka Beyani  
Special Rapporteur on the Human Rights of Internally Displaced Persons

## I. INTRODUCTION

According to best estimates, by early 2014, there were over 30 million people who had been internally displaced by conflict and human rights violations. This was the highest number ever recorded and over 25 times the number of internally displaced persons (IDPs) counted in 1982. Some of this increase is undoubtedly the result of better and more comprehensive means of estimating the number of IDPs, but it also reflects the increasingly protracted nature of displacement, as well as the increasing use of displacement as a strategy in civil conflicts.

Like refugees, IDPs are people who have been forced to flee but unlike refugees, they remain within the national borders of their home state or the state where they habitually reside. As a result, IDPs are the legal responsibility of national governments rather than that of other states or international organizations like the UN. Therefore it is considerably harder for the United Nations, NGOs or other organizations and institutions to provide assistance and protection to them – even when their governments are unable or unwilling to do so. Furthermore, there is no binding convention or specific UN agency responsible for IDPs. While refugees have benefited from the 1951 Refugee Convention and the United Nations High Commissioner for Refugees (UNHCR), IDPs have often been on the receiving end of *ad hoc* responses. Indeed, it was not until the 1990s that normative frameworks began to be formalized for this group.<sup>1</sup> Thus, it is very important to trace both the historical development of these normative frameworks, and to consider achievements, challenges and potential improvements for IDP protection.



Colombian IDP family in Barrio La Reliquia (Refugees International/2012)

IDPs are “...persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internally recognized state border.”

-Guiding Principles on Internal Displacement

While internal displacement is certainly not “new,” the way it is understood, studied, and responded to has evolved over time among policymakers, practitioners, scholars, and IDPs themselves. In the last 25 years, significant momentum in the development of normative standards relating to internal displacement, has translated into important outcomes in the lives of IDPs. The most noteworthy accomplishment was the development of the Guiding Principles on Internal Displacement in 1998 which set the foundation for global, regional and national approaches and initiatives to internal displacement. The Guiding Principles were presented to the then-UN Commission

<sup>1</sup> [UNHCR](#) was mandated to provide protection for refugees, and by General Assembly Resolution 428 (V) of 14 December 1950 to “lead and coordinate international action for the worldwide protection of refugees and the resolution of refugee problems...guided by the 1951 United Nations [Convention Relating to the Status of Refugees](#) and its 1967 Protocol.” The UNHCR has traditionally argued that it does not have a “general competence for IDPs” even though at least since 1972 it had relief and rehabilitation programs for those displaced within a country.

on Human Rights and were affirmed five years later by the World Summit – a clear sign that issues of internal displacement belonged on the international agenda.

Yet despite the development of normative frameworks, IDP needs and vulnerabilities are still not adequately addressed and there is much work to be done to ensure that the rights of IDPs are upheld. This report maps some of the key normative developments on internal displacement over recent decades, based on the 2012 report to the Secretary-General by Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani.<sup>2</sup>

## Reasons for Displacement

People are displaced for many reasons. Armed conflict, generalized violence or human rights violations, for example, are among the most commonly discussed reasons for internal displacement. The majority of IDPs fleeing for this reason are in sub-Saharan Africa, followed by the Middle East and North Africa. Syria has now surpassed Colombia as the country with the highest number of IDPs.<sup>3</sup>



*IDP children take a break while carrying family belongings to a relative's tent in an IDP settlement in Herat Province, June 5, 2012. (NRC/FarzanaWahidy)*

However, recent years have witnessed increased attention to displacement from natural hazards, including both sudden-onset disasters, such as typhoons and earthquakes and slow-onset disasters.<sup>4</sup> In 2012, an estimated 32.4 million people were displaced by sudden-onset natural disasters and IDMC estimates that 144 million people have been displaced over the past five years.<sup>5</sup> In 2012, disaster-induced displacement was concentrated in Asia, with major displacement events occurring in India, China, the Philippines, and Pakistan as well as in Nigeria.<sup>6</sup> Slow-onset disasters like drought and desertification, both of which are affected by climate change, also cause displacement, but it has proven more difficult to estimate the numbers of IDPs given the close relationship between environmental and economic drivers of displacement.

People are also displaced by development projects, including construction of dams and other large infrastructure projects, urban renewal measures, development of natural parks and construction undertaken in association with sporting events. While there are no comprehensive figures for those displaced by such initiatives, the best estimate is that around 15 million people per year are displaced by development-project activities. The multilateral development banks have developed important safeguard policies to ensure that those displaced in development

<sup>2</sup> Available from <http://www.brookings.edu/about/projects/idp/un-mandate/chaloka-beyani>

<sup>3</sup> <http://www.internal-displacement.org/assets/library/Media/201405-globalOverview-2014/8.-GO-2014-At-a-Glance-Final-Eng.pdf>

<sup>4</sup> See report of the Special Rapporteur A/66/285, August 2011.

<sup>5</sup> IDMC 2013 <http://www.internal-displacement.org/assets/publications/2013/2013-Appeal-corporate-en.pdf>.

<sup>6</sup> IDMC 2013, <http://www.internal-displacement.org/assets/publications/2013/2012-global-estimates-corporate-en.pdf>

projects (at least those supported by the banks) are compensated and provided with services to enable them to resettle in their new sites.<sup>78</sup>

Low-income households and communities are particularly vulnerable to the problems caused by violence, disasters or development projects, and internal displacement that drags on for years can only exacerbate already complex situations. Indeed, IDPs in more than 40 countries have experienced entire generations of people who have grown up in protracted displacement situations.<sup>9</sup>

### **IDPs in Protracted Situations**

The majority of the world's displaced persons are in protracted situations. Even in cases where the immediate threat has diminished, whether it is violence or a natural hazard displacement becomes protracted when solutions are not found. Some protracted IDP situations have gone on for decades, with entire generations growing up displaced and lacking protection of basic human rights, including economic, social and cultural rights. As new emergencies take the spotlight, donors, humanitarian agencies and the media tend to lose interest in protracted cases. This can make finding a durable solution (or even an interim solution) even more challenging. While protracted refugee situations have received considerable attention from the UN and other international actors, protracted IDP situations and potential solutions to them need more attention on the international stage. For more, see the 2011 Brookings/IDMC report, "IDPs in Protracted Displacement: Is Local Integration a Solution?" which includes case studies on Burundi, Colombia, Georgia, Serbia, southern Sudan and Uganda.

Source: <http://www.internal-displacement.org/assets/publications/2011/201106-IDPs-in-protracted-displacement-Is-local-integration-a-solution-thematic-en.pdf>

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<sup>7</sup> World Bank, "Operational Policy on Involuntary Resettlement 4.12," 2001, <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064610~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>

<sup>8</sup> M. Cernea, 'Compensation and Investment in Resettlement: Theory, Practice, Pitfalls, and Needed Policy Reform', in M. Cernea and H. M. Mathur (eds), *Can Compensation Prevent Impoverishment?* (Oxford University Press, 2008) 1-5.

<sup>9</sup> IDMC and NRC "Global Overview 2011: People internally displaced by conflict and violence", April 2012, pp. 13-14.



## II. THE EVOLUTION OF INTERNAL DISPLACEMENT NORMS

### The Early Days: Recognizing the Unique Human Rights Needs of IDPs and Triggering a UN Reaction

Although internal displacement is not a new phenomenon, attention and research on it as a specific issue-area only gained momentum in the 1990s. While the 1951 Convention Relating to the Status of Refugees outlined a specific definition of ‘refugee,’ it did not speak to the needs and rights of IDPs, nor was there another mechanism, norm, legal system or policy in the international system that could uniformly assist IDPs or guide states on how they should respond to IDPs. The internally displaced were thus adrift in an *ad hoc* system, with little official recognition by the international community, and subsequently little assistance or protection.



IDMC/2013

As historical shifts—the end of the Cold War in particular—altered the meaning of sovereignty and borders, the number of IDPs increased. For example, the breakup of Yugoslavia led to a major displacement crisis in the Balkans. Moreover, states, donors and other actors in the international community came to think about sovereignty differently. Borders that had previously been viewed as impenetrable without the state’s permission were re-considered for intervention and action. Thus, as IDPs became increasingly visible, so did the lack of clear standards of protection and assistance by the international community.

“As IDPs became increasingly visible, so did the lack of clear standards of protection and assistance to the international community.”

In 1992, the United Nations began to take up the issue of internal displacement.<sup>10</sup> This was in part a response to a 1990 joint campaign by NGOs to advocate for international standards for IDPs and a UN representative focused solely on IDPs.<sup>11</sup> The UN Commission on Human Rights appointed Francis Deng, a scholar and diplomat from Sudan, as the first Representative of the Secretary-General on Internally Displaced Persons. Deng was tasked with examining the extent to which existing international human rights, humanitarian, and refugee law was applicable to IDPs. In partnership with other experts and institutions, Deng carried out consultations for several years to review existing international law and to identify gaps in IDP protection. The job was complex, as it required both identifying the unique needs of IDPs—what makes them

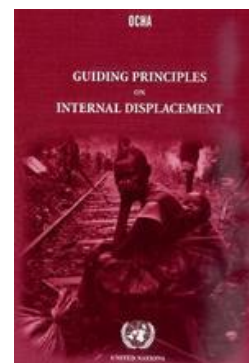
<sup>10</sup> E/CN.4/1992/23, para. 103.

<sup>11</sup> Cohen 462.

“different” and in need of special attention—while also considering how existing frameworks could apply to their situation.

## The Development of the Guiding Principles on Internal Displacement and Changes in Humanitarian Approaches to IDPs

The idea that protection and assistance for IDPs could be drawn from existing international law was at the core of Deng and his team’s priorities. Rather than “reinventing the wheel” and trying to create new norms and laws, they agreed to base a normative framework for IDPs on international human rights and humanitarian law that had already been agreed upon and supported by states. The hope was that states would be more likely to support application of existing international law to IDPs rather than to embark on the arduous process of negotiating a new convention or treaty.



The crowning achievement of this work and the most significant milestone in IDP normative development was the creation of the Guiding Principles on Internal Displacement. Finalized in 1998, the Guiding Principles are meant to provide concrete guidance to states, to enhance the capacity of the UN system to respond to situations of internal displacement, to raise greater awareness on the plight of IDPs, and to ensure more effective protection and assistance to IDPs.<sup>12</sup> They provide a foundation for states, the UN, NGOs and other actors to respond to IDP situations in all phases of displacement, from prevention to response to durable solutions.<sup>13</sup> The Guiding Principles not only set the basic standard for the legal protection of IDPs globally, but also provided a platform for subsequent regional and national frameworks for IDP protection and assistance.<sup>14</sup>

Another important development for IDPs was the establishment of the Inter-Agency Standing Committee (IASC) in 1992 which brought together the key humanitarian actors, including UN agencies, other inter-governmental organizations like the International Committee of the Red Cross and the International Organization for Migration, and important NGO coalitions.<sup>15</sup> Under the leadership of the Emergency Relief Coordinator, the primary focus of the IASC is to ensure coherent and timely response to humanitarian emergencies.<sup>16</sup> Since IDPs do not fall within the exclusive mandate of any UN agency, the IASC became an important forum for considering how the international community could respond more effectively to those displaced within the borders of their countries. Important policy documents, such as the Operational Guidelines for the

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<sup>12</sup> From Foreword by Jan Egeland, Second Edition of Guiding Principles on Internal Displacement <http://www.unhcr.org/43ce1cff2.html>

<sup>13</sup> Annotations to the Guiding Principles were published in 2000 to provide further detail on the underlying international legal frameworks for each of the 30 Guiding Principles. See Kälén, *Guiding Principles on Internal Displacement: Annotations*, 2<sup>nd</sup> ed. Studies in Transnational Legal Policy 38, American Society of International Law and Brookings Institution (Washington, D.C., 2008).

<sup>14</sup> The Guiding Principles provided the basis for the Great Lakes Protocol on the Protection and Assistance of Internally Displaced Persons, and the African Union Convention on the Protection and Assistance of IDPs in Africa.

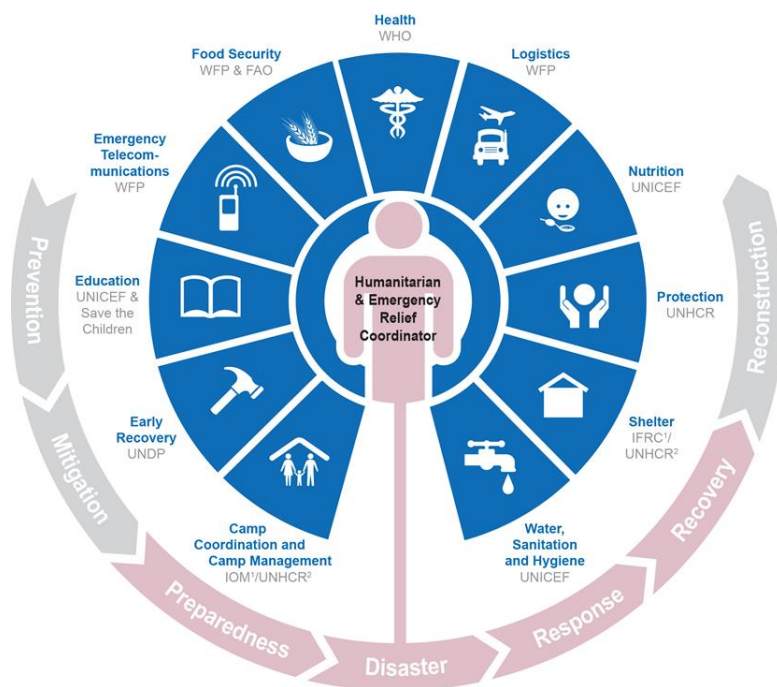
<sup>15</sup> <http://www.humanitarianinfo.org/iasc/pageloader.aspx?page=content-about-default>

<sup>16</sup> General Assembly resolution 48/57, para. 6.

Protection of Persons in Situations of Natural Disasters and the Framework on Durable Solutions for Internally Displaced Persons, were considered and adopted by the IASC.<sup>17</sup>

## HUMANITARIAN REFORM

In 1999, the IASC adopted a policy paper by Francis Deng on the protection of IDPs as a concern to all humanitarian and development agencies, and agreed on a collaborative approach among actors as the best way to respond to IDPs.<sup>18</sup> Though not a normative standard, it was an effort to implement more effective policies on the ground. Under the collaborative approach, agencies were to agree among themselves in each situation of internal displacement about which agency would take the lead. However, this did not work very well in practice and a 2004 study found that IDP rights continued to be *ad hoc* and did not have enough financial or political support, largely undermining efforts in the field.<sup>19</sup>



*Humanitarian Response/2014*

In 2005, then-Emergency Relief Coordinator, Jan Egeland initiated a process of humanitarian reform, triggered mainly by the poor international response to large-scale internal displacement in Darfur, Sudan. He was particularly concerned about the lack of institutional accountability for the slow and insufficient programs to respond to IDPs. Humanitarian reform was intended to replace the collaborative approach to IDPs and emphasized the importance of humanitarian leadership, a more flexible funding mechanism and better coordination among humanitarian actors. Key to humanitarian reform was the

cluster approach, which sought to create a more predictable and accountable leadership in nine sectors of humanitarian response (logistics; emergency telecommunications; camp coordination and management; shelter; health; nutrition; water, sanitation and hygiene promotion; early recovery; and protection; education and agriculture have since been added as sectors, making it

<sup>17</sup> See <http://www.brookings.edu/research/reports/2010/04/durable-solutions> for more.

<sup>18</sup> "Protection of Internally Displaced Persons," IASC Policy Paper Series, No. 2, New York (2000).

<sup>19</sup> Simon Bagshaw and Diane Paul, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, Office for the Coordination of Humanitarian Affairs, Inter-agency Internal Displacement Division, and Brookings-SAIS Project on Internal Displacement, November 2004, available from

[http://www.brookings.edu/~media/research/files/papers/2004/11/23humanrights%20bagshaw/protection\\_survey.pdf](http://www.brookings.edu/~media/research/files/papers/2004/11/23humanrights%20bagshaw/protection_survey.pdf)

eleven sectors in total).<sup>20</sup> Rather than negotiate between agencies over who would be responsible for a particular IDP situation, lead agencies were named to assume responsibility for particular sectors.

The cluster approach has brought some improvements to IDP responses. Most notably, it has created more predictability, clearer lines of responsibility and improved coordination. However, it has not always been an easy process to coordinate a large number of diverse actors with different mandates, constituencies, tools and approaches. Moreover, IDP situations are dynamic and complex, and thus the cluster approach is constantly challenged to be flexible to meet different contexts.

Broadly speaking, the Guiding Principles represent the most important global normative framework of standards for internal displacement and the cluster approach has been an important effort to improve protection and assistance on the ground. Both of these initiatives reaffirm the importance of addressing the particular needs and rights of internally displaced persons through the provision of tailored assistance, protection and durable solutions to displacement. Most obviously this benefits IDPs, but it also supports states in their efforts to prevent, respond to and resolve internal displacement.

“Far from constituting a form of discrimination vis-à-vis other groups, addressing the particular needs and rights of internally displaced persons allows for the provision of tailored assistance, protection and durable solutions to displacement which support states and affected communities more effectively, thereby increasing compliance with international human rights norms and promoting inclusion, stability and security.”

## NORM DEVELOPMENT AT THE GLOBAL LEVEL

The challenge for the Guiding Principles has been how to translate normative policy and scholarship, in other words, the ideals upheld in this framework, into concrete laws and policies at the national level.

The Guiding Principles are global in nature; they are meant to offer a framework of human rights principles that can apply across the board in a range of settings. Because Deng and his team based the Guiding Principles on existing human rights, humanitarian and refugee laws that were already widely accepted, the Guiding Principles weren't starting from scratch. This gave them both authority and credibility that they may not have otherwise had if entirely new norms and standards were being presented.



Refworld/2013

<sup>20</sup>IASC, “Guidance note on using the cluster approach to strengthen humanitarian response,” November 24, 2006.

At the 2005 UN World Summit, Heads of State and Government affirmed the Guiding Principles as “an important international instrument for the protection of internally displaced persons.” Since then the General Assembly has regularly affirmed the importance of IDP protection and the Security Council has adopted a number of resolutions relating to IDPs.<sup>21</sup> That same year, an ICRC study on customary international humanitarian law recognized the role of the Guiding Principles as a source of customary law.<sup>22</sup> According to the study, the prohibition of forced displacement is a rule of customary international law and therefore binding on all states.<sup>23</sup> Thus, the Guiding Principles are gradually being crystallized in binding principles and obligations.

## **NORM DEVELOPMENT AT THE (SUB) REGIONAL LEVEL**

A number of regional and sub-regional intergovernmental organizations—including the African Union, the International Conference on the Great Lakes Region, the Economic Community of West African States, the Inter-American Commission on Human rights of the Organization of American States, the Organization for Security and Cooperation in Europe and the Council of Europe—have drawn on the Guiding Principles in their own policies and legislations.

“The Guiding Principles have not been approved by means of an international treaty. However, given that they fundamentally reflect and fill in the gaps of the provisions of international human rights treaties, which have received widespread acceptance by different international human rights bodies, this Court considers that they must be held as parameters for legal creation and interpretation in the field of regulation of forced displacement and State assistance to IDPs. Needless to say this does not preclude the fact that all of the provisions [of the Guiding Principles] that reiterate norms already included in international human rights treaties and international humanitarian law treaties approved by Colombia have constitutional rank, as provided by article 93 of the Constitution.”

Among the most notable examples, in 2006 the Guiding Principles were incorporated into law in Africa when 11 states adopted a binding Pact on Security, Stability and Development in the Great Lakes Region, The Pact comprises 10 protocols and one of the most important of them is the Protocol on the Protection and Assistance to Internally Displaced Persons, which entered into force in June 2008.<sup>24</sup> Member states of the International Conference on the Great Lakes Region are required to enact national legislation to domesticate the Guiding Principles into their legal

<sup>21</sup> *World Summit Outcome Document, 2005* <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>

For analysis of UN Security Council on IDPs, see Sanjula Weerasinghe and Elizabeth Ferris, *Security Council, Internal Displacement and Protection*, Washington, DC: Brookings-LSE Project on Internal Displacement, 2011, [http://www.brookings.edu/~media/research/files/reports/2011/9/security%20council%20resolutions%20ferris/security\\_council\\_id\\_protection.pdf](http://www.brookings.edu/~media/research/files/reports/2011/9/security%20council%20resolutions%20ferris/security_council_id_protection.pdf)

<sup>22</sup> Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, vols.I and II, International Committee of the Red Cross and Cambridge UP (2006).

<sup>23</sup> See *ibid*, Rules 129 to 133.

<sup>24</sup> See [www.icglr.org/index.php/en/the-pact](http://www.icglr.org/index.php/en/the-pact)

system and to encourage IDP participation in developing such legislation.<sup>25</sup> This was the first time a group of states agreed to develop binding international law on internal displacement.

The Protocol on Internally Displaced Persons also contributed to the development and adoption of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, also known as the Kampala Convention.<sup>26</sup> The Kampala Convention is the first binding regional treaty on internal displacement. It was developed over a five-year period, adopted in 2009 by the African Union (AU), and entered into force in December 2012 upon the ratification by twelve member states. This convention incorporates the Guiding Principles and sets out specific obligations for states, the AU and humanitarian agencies for all phases of displacement and applies to all types of internal displacement, whether caused by conflict, human rights violations, development projects, disasters, or climate change.

Given the mass scale of internal displacement in Africa, the Kampala Convention, signed by 39 member states and ratified by 22, is a noteworthy achievement and an important model for other regions responding to internal displacement. The Kampala Convention is also significant because it recognizes a range of internal displacement drivers, including climate change and development projects, to which states must protect and assist IDPs. According to the convention, national authorities must respond with specific actions, including developing policies, strategies and legislation, and allocating funds and personnel to carry out such activities. It also requires non-state actors and armed groups to protect and assist IDPs under their control, a stipulation that, though difficult to enforce, marks an advance in understanding of responsibility for IDPs.

### **Organization of American States (OAS): IDPs and the Guiding Principles**

In 2006, the OAS General Assembly adopted a resolution on IDPs that “appeal[s] to the appropriate agencies of the United Nations and inter-American systems, and other humanitarian organizations and the international community, to provide support and/or assistance, as requested by states, in addressing the various factors that cause internal displacement, and in assisting persons affected by internal displacement at all stages, where, should emergency humanitarian assistance be required, account should be taken of the Guiding Principles on strengthening of the coordination of humanitarian emergency assistance (United Nations General Assembly resolution 46/182).”

*Source: [http://www.oas.org/dil/displaced\\_persons.htm](http://www.oas.org/dil/displaced_persons.htm)*

Other prominent examples of regional commitments to the Guiding Principles and their incorporation into domestic law are found in the Organization of American States and the Council of Europe. The rights of IDPs have also been affirmed under the jurisprudence of

<sup>25</sup> Article 6.5.

<sup>26</sup> Chaloka Beyani, “Recent developments: the elaboration of a legal framework for the protection of internally displaced persons in Africa,” *Journal of African Law*, 50(2), 2006, Cambridge, pp. 187-197.

African Commission on Human and Peoples' Rights,<sup>27</sup> the Inter-American Court of Human Rights<sup>28</sup> and the European Court of Human Rights. All of these bodies have drawn on the Guiding Principles<sup>29</sup> to address IDP issues.

## NORM DEVELOPMENT AT THE NATIONAL LEVEL

While global and regional norms are important, the way in which they are translated into national policies affecting the “on the ground” daily lives of IDPs is most important.<sup>30</sup> To date, over 26 countries have adopted or issued policies, laws or decrees relating to internal displacement.<sup>31</sup> Other countries like Georgia, Nigeria, Somalia and Yemen are in the process of developing or drafting legislation on IDPs. Of note is the Mexican state of Chiapas, which adopted a law on displacement in February of 2012 that incorporates the Guiding Principles – the first time that a subnational government has adopted a binding law on IDPs. The Constitutional Court of Colombia also ruled that the government must use the Guiding Principles as parameters for the creation and interpretation of norms regulating internal displacement.<sup>32,33</sup>

A number of materials have also been developed to help states implement the Guiding Principles. In 2008, the Brookings Institution-University of Bern Project on Internal Displacement published a manual for law and policymakers, based on the Guiding Principles, and aimed at guiding national authorities in developing domestic law and policy relevant to IDPs.<sup>34</sup> The manual includes helpful examples of laws and policies developed by states to address IDP needs in specific sectors, ranging from education to compensation for land and property. In 2013, the Inter-Parliamentary Union and UNHCR published *Internal Displacement: Responsibility and Action*, which in addition to helping parliamentarians draft legislation, discusses mechanisms for monitoring and enforcing the human rights of IDPs.<sup>35</sup>

The 2005 publication, *Addressing Internal Displacement: A Framework for National Responsibility* provides guidance to governments on their responsibilities toward IDPs, outlining 12 benchmarks that states can use to prevent, address and provide durable solutions to internal

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<sup>27</sup>See *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya*, Communication 276/2003; and *Malawi Association and Others v. Mauritania*, Communication 54/91.

<sup>28</sup>“*Mapiripan Massacre*” v. *Colombia*, Judgment, September 15, 2005.

<sup>29</sup>For example, European Court of Human Rights, *Soltanov and Others v. Azerbaijan*, Judgment, January 13, 2011; and *Isayeva v. Russia*, Judgment, 24 February 2005.

<sup>30</sup>See IDMC’s *National Instruments on Internal Displacement: A Guide to their Development* August 2013 <http://www.internal-displacement.org/assets/publications/2013/201309-national-instruments-on-internal-displacement-thematic-en2.pdf>

<sup>31</sup>See [www.brookings.edu/about/projects/idp/laws-and-policies/idp-policies-index](http://www.brookings.edu/about/projects/idp/laws-and-policies/idp-policies-index).

<sup>32</sup>Constitutional Court of Colombia, decision No. SU-1150-2000, para.38; also see decision T-025 of 2004 by the same court.

<sup>33</sup>Citing Decision SU-1150 of 2000, from Federico Guzmán Duque, “The Guiding Principles on Internal Displacement: Judicial Incorporation and Subsequent Application in Colombia” in Rodolfo ArangoRivadeneira (ed.) *Judicial Protection of Internally Displaced Persons: The Colombian Experience*. Brookings-Bern Project on Internal Displacement, November 2009. Available from:[http://www.brookings.edu/~media/Research/Files/Papers/2009/11/judicial%20protection%20arango/Chapter\\_6.PDF](http://www.brookings.edu/~media/Research/Files/Papers/2009/11/judicial%20protection%20arango/Chapter_6.PDF)

<sup>34</sup><http://www.unhcr.org/50f955599.pdf>

<sup>35</sup><http://www.ipu.org/PDF/publications/Displacement-e.pdf>

displacement.<sup>36</sup> In 2011, a study entitled the *Framework for National Responsibility* used this framework to address the manner and extent to which national authorities were addressing internal displacement in 15 of the 20 countries most affected by internal displacement.<sup>37</sup> Among other things, the study highlighted the pivotal role that national human rights institutions can play in improving the national responses to internal displacement, particularly in monitoring displacement situations and returns, investigating individual complaints and advocating for and advising governments on the drafting of national policies to address internal displacement<sup>38</sup>

While these tools are important resources for governments to use in addressing internal displacement in their own particular contexts, the most important determinant of strong policies for IDPs is the political commitment on the part of governments. Often this political commitment has been triggered by active engagement of civil society groups.

### **The Mapiripán Massacre v. Colombia**

In 1997 the outlawed right-wing paramilitary group, United Self-Defense Forces of Colombia (AUC) massacred at least 30 civilians in Mapiripán Colombia. In the trial before the Inter-American Court of Human Rights, the Colombian government admitted that it played a role in the massacre because its local troops were told to stand down as the massacre took place. This decision demonstrates how human rights violations based in international norms like the Guiding Principles can enter into judicial decisions. The court recognized that forced displacement in particular violates the right to freedom of movement and residence, that it disregards other rights, and makes victims very vulnerable.

Source:

[http://www.brookings.edu/~media/research/files/papers/2009/11/judicial%20protection%20arango/chapter\\_5.pdf](http://www.brookings.edu/~media/research/files/papers/2009/11/judicial%20protection%20arango/chapter_5.pdf)

## **OTHER NORMATIVE DEVELOPMENTS**

Other normative developments on internal displacement include the creation of standards, operational guidelines and other tools to support states, humanitarian actors and development agencies in responding to internal displacement. For example, the Global Protection Cluster Working Group is a mixture of organizations and UN agencies that helped develop *The Handbook for the Protection of Internally Displaced Persons*.

Finding durable solutions for those displaced has long been a key concern for IDPs, states and humanitarian and development organizations. The Guiding Principles set out three durable solutions: return to the community of origin, local integration in their place of displacement or settlement in another part of the country. The *Framework on Durable Solutions for Internally*

<sup>36</sup> Brookings-Bern Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers*, October 2008; Brookings-Bern Project on Internal Displacement, *Addressing Internal Displacement: A Framework for National Responsibility*, April 2005.

<sup>37</sup> Elizabeth Ferris, Erin Mooney and Chareen Stark, *From Responsibility to response: Assessing National Approaches to Internal Displacement*, Brookings-LSE Project on Internal Displacement, November 2011.

<sup>38</sup> *Ibid.*, p. xiii.



*Displaced Persons* was presented to the UN Human Rights Council in 2010 and endorsed by the IASC.<sup>39</sup> In addition to guidance for national and local authorities as well as humanitarian and development actors, it includes rights-based principles to guide action, and indicators to monitor progress toward durable solutions. Most of all, it sets a basic standard for durable solutions, defining a durable solution as having been achieved when IDPs no longer have specific assistance and protection needs related to their displacement, and they can enjoy their human rights without discrimination resulting from their displacement.<sup>40</sup>

“...it considers a durable solution as having been achieved when IDPs no longer have specific assistance and protection needs related to their displacement, and can enjoy their human rights without discrimination resulting from their displacement.”

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<sup>39</sup> A/HRC/13/2, Add. 4.

<sup>40</sup> [http://www.brookings.edu/~media/Research/Files/Reports/2010/4/durable%20solutions/04\\_durable\\_solutions.PDF](http://www.brookings.edu/~media/Research/Files/Reports/2010/4/durable%20solutions/04_durable_solutions.PDF)

### III. TRENDS AND FOCUS AREAS

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Over the past two decades, notable advances have been made in developing the normative framework on internal displacement, reforming the institutional architecture to respond to IDP needs, creating a body of research on the particular needs and contexts of IDPs and strengthening civil society awareness of internal displacement. Increasingly states acknowledge their responsibility for IDPs and are developing laws, policies and governmental entities to respond to these needs. And yet the number of IDPs has continued to increase, indicating that neither states nor international actors have been able to prevent displacement. And much more needs to be done to bring about lasting solutions for those who have been displaced for years.

#### Climate Change

Global trends that are shaping patterns of internal displacement include: population growth, rapid urbanization, and increased human mobility, as well as food, water and energy insecurity. In the future, climate change will likely increase displacement as sudden-onset disasters, such as storms, flooding, and mudslides increase in severity and frequency. Slow-onset disasters, most notably droughts, desertification and sea level rise, are likely to lead people to leave affected areas. Climate change may also increase competition over resources and livelihoods leading to conflicts which displace people.<sup>41</sup> Climate change adaptation plans are needed which will minimize the displacement of people from their communities.

Internal displacement resulting from the effects of climate change, both sudden and slow onset, has begun receiving more attention in recent years. In 2010, a Conference of the Parties to the United Nations Framework Convention on Climate Change expressly acknowledged climate change-induced displacement. This marked the first time that those working on climate change acknowledged human mobility as an adaptation strategy for climate change. This meeting, which took place in Cancun called for greater study, coordination and cooperation on climate change induced displacement, migration and planned relocation.<sup>42</sup> Disaster risk reduction and prevention, planned and pre-emptive movement, and durable solutions, as well as using a human rights based approach were also stressed.<sup>43</sup>

#### Urban Displacement

As the world's population becomes more urban, it is almost certain that urban internal displacement will become more widespread.<sup>44</sup> By 2030, the world's urban population is expected to exceed 5 billion, and some 80 percent will live in urban centers in the developing world. Many urban dwellers currently live in slums or informal settlements, and IDPs are no exception to this

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<sup>41</sup>A/66/285, para. 28.

<sup>42</sup> Framework Convention on Climate Change, Report of the Conference of the Parties on its sixteenth session, held in Cancun from November 29 to December 10, 2010, Part Two: Action Taken by the Conference of the Parties at its sixteenth session (FCCC/CP/2010/7/Add.1) para.14 (f).

<sup>43</sup>A/66/285.

<sup>44</sup>See ChalokaBeyani's report to the Secretary General, October 2013, available from <http://www.brookings.edu/research/reports/2013/10/noncamp-displaced-persons>.

trend. IDPs livelihoods and educational opportunities may be better in urban areas, but they also may face unique protection concerns. First, IDPs are often more difficult to identify and assist when they live dispersed among poor urban communities. Second, it is often more difficult to secure housing and land in urban areas as these are generally more expensive than in rural areas. Third, as IDPs are likely to live in the more marginal areas of a city, they are also usually more vulnerable to natural hazards such as flooding or mudslides. Similarly, they may be susceptible to mass evictions to make way for urban renewal or decongestion policies. Criminal violence is often higher in cities and, separated from their normal social networks, IDPs may be vulnerable to recruitment in criminal gangs and/or extortion.

## Non-State Armed Groups

The global trend of the proliferation of non-state armed groups – many motivated by criminality rather than ideology – is likely to increase displacement. Internal armed conflicts and violence have long been recognized as a major cause of internal displacement, often resulting in protracted displacement and serious on-going human rights violations. In conflicts conducted by a range of actors, non-state armed militias, paramilitary groups or armed gangs often seek to block humanitarian assistance (or confiscate relief items). Interest seems to be increasing in the phenomenon of internal displacement caused by violence linked to organized crime (e.g. drug cartels).<sup>45</sup> There is also growing interest in regulating the state’s obligations to victims of organized violence and armed conflict, including the integration of obligations toward IDPs into broader justice and reparations processes.<sup>46</sup>

Finally, it is worth noting that, for better or worse, much of the work on IDPs has been borrowed from the refugee context (drawing on language, rhetoric, “durable solutions” and other conceptualizations of displacement). And while centers for data collection on IDPs (Internal Displacement Monitoring Centre and Joint IDP Profiling Service) and research (Brookings-LSE Project on Internal Displacement) have developed over the years, there is much work to be done especially by the countries affected by internal displacement.<sup>47</sup> More work is needed on preparedness, prevention, and mitigation frameworks; norms relating to compensation and reparation to IDPs, climate change and slow onset disasters and bridging the humanitarian/development gap in order to find solutions for IDPs. Continued attention is also needed on human rights institutions, state initiatives and regional institutions on policy and legal frameworks on internal displacement that are in line with international standards.

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<sup>45</sup> See [www.internal-displacement.org/countries/mexico](http://www.internal-displacement.org/countries/mexico), for studies on this issue in relation to Mexico, including “Generalized criminal violence in Mexico: basis, priorities, and challenges for humanitarian engagement” by Sebastián Albuja, June 30, 2011.

<sup>46</sup> For example, Colombia: Law 1448 on Victims and Land Restitution, of June 10, 2011, art. 3, and chap. III; [www.unhcr.org/refworld/docid/4f99029f2.html](http://www.unhcr.org/refworld/docid/4f99029f2.html).

<sup>47</sup> Joint IDP Profiling Service available at [www.jips.org](http://www.jips.org); IDMC available at [www.internal-displacement.org](http://www.internal-displacement.org); Brookings-LSE Project on Internal Displacement available at [www.brookings.edu/about/projects/idp](http://www.brookings.edu/about/projects/idp).

## **IV. CONCLUSIONS AND RECOMMENDATIONS**

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Broadly speaking, states and international and civil society actors need to be ready to adopt comprehensive frameworks that address all types and stages of displacement. Recommendations for implementing these frameworks are as follows:

### **On the national level:**

- Authorities should adopt comprehensive national policies and institutional and legal frameworks to address internal displacement, based on the Guiding Principles. These frameworks should include disaster preparedness and disaster management laws as well as mechanisms to increase awareness and capacity to address internal displacement. Key to this endeavour is the need for states to reaffirm their political commitment to uphold the rights of IDPs.
- AU member states should ratify the Kampala Convention and members of the International Conference on the Great Lakes Region should implement the IDP Protocol to the Pact on Security, Stability and Development in the Great Lakes Region.
- Authorities should prevent internal displacement and promote durable solutions by building resilience, conflict resolution mechanisms (i.e. relating to land disputes), civil status (i.e. birth registration and property title registries), contingency strategies, early-warning systems and community intervention mechanisms.
- Authorities should find ways for IDPs to participate in decisions that affect their lives and enhance the capacity of all levels of government -- local authorities in particular-- and civil society to address internal displacement.
- Accountability measures should be put in place for violations of international law by state or non-state actors that can lead to displacement. IDPs should be encouraged to participate in political, reconciliation and peace processes, and to decide on the durable solution that best suits their situation.

### **The international community and humanitarian/development actors should:**

- Continue to support regional organizations and mechanisms on internal displacement (regional instruments and guidance in line with international standards; human rights protection; coordination; advocacy/capacity-building; monitoring and early-warning etc.).
- Continue to support efforts to address climate change-related displacement, including that which is related to slow or sudden onset natural hazards. This requires concrete strategies to follow up on the recommendations adopted in 2010 in Cancun as well as incorporating a human rights focus into adaptation strategies. Disaster risk reduction measures which minimize displacement are needed. Furthermore, states need guidance on how to take displacement into account in climate change discussions.
- Continue to identify and address the many causes of internal displacement and new approaches and responses, including sharing of information and technology on disaster preparedness and management.
- Consider broad trends (e.g. urban internal displacement/outside of camps, the empowerment of women IDPs, protracted displacement, and bridging the humanitarian/development gap).
- Support actors within the human rights/humanitarian system (e.g. IASC and members of the cluster system) to promote human rights throughout internal displacement, particularly in relation to development actors and projects.

- Support civil society and national human rights institutions to put the human rights of IDPs on the national agendas, and continue to promote the development of normative frameworks and guidance supported by OHCHR, UNHCR, OCHA and IASC.

*The role of the Special Rapporteur on the Human Rights of IDPs*

Over the past twenty years, the mandate on the human rights of IDPs has successfully built on its partnerships, working methods, thematic expertise and normative standards to be a strong advocate for IDPs in a context where there is no single UN agency tasked with this responsibility. The mandate works on multiple levels: with IDPs, national governments, international organizations and regional bodies. The mandate of the Special Rapporteur has helped to shine a spotlight on IDPs, and to mainstream their specific human rights needs into the UN system more broadly. Good working relationships with UNHCR, OCHA and OHCHR, as well as the General Assembly and the Human Rights Council have also been essential to the mandates. The mandate-holder has also been able to raise specific themes and issues in various reports on internal displacement, including in relation to climate change, natural disasters, and IDPs outside of camps.

The primary responsibility for IDPs lies with states and the mandate has explicitly spelled out what this means for governments through visits to countries affected by displacement. Building capacity to develop national laws and policies has been carried out through training events and workshops, including an annual course for government officials on the Law of Internal Displacement held in Sanremo in association with UNHCR.