



The Role of IDP Law and Policy in Fostering Responsibility and Accountability of Governments

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August 2020

Research Briefing Paper

UNSG High Level Panel on Internal Displacement

Workstream 1 (Political Will)

For full analysis and reference to sources, see IDRP research paper by the same authors.

The work of the Internal Displacement Research Programme (IDRP) is supported by the UK Research and Innovation (UKRI) Global Challenges Research Fund (GCRF) through its Interdisciplinary Network on Displacement, Conflict and Protection (AH/T005351/1) and Global Engagement on Internal Displacement in sub-Saharan Africa (EP/T003227/1) projects.

This briefing assesses the role of national legislation and regional frameworks in fostering the responsibility and accountability of governments on internal displacement, drawing on an analysis of concrete examples and existing studies.

1. The adoption and scope of laws on internal displacement

The non-binding Guiding Principles on Internal Displacement (Guiding Principles) provide internally displaced persons (IDPs) with both international recognition and describe their existing rights in international human rights and humanitarian law. Over the last decades, they have emerged as an important reference point on IDP protection and assistance.¹ Key international organizations including the UN General Assembly have encouraged States also to develop their own domestic legislation and policies on internal displacement and the multi-stakeholder GP20 Plan of Action has included the promotion, development, and implementation of national frameworks to prevent and address internal displacement as a key priority.

Between 1992 and 2020, 43 States with current or past situations of conflict-induced displacement adopted domestic laws and policies on internal displacement, acknowledging their primary responsibility to assist and protect their internally displaced populations. However, while these laws and policies generally establish that IDPs are protected by domestic and international laws, they are less likely to reflect key aspects of the Guiding Principles including its definition and principles on durable solutions. International support during the drafting process does improve domestic instruments' concordance with the Guiding Principles, as do other steps such as the African Union's Model Law for the Implementation of the African Union Convention for the Protection of and Assistance to Internally Displaced Persons in Africa, which was introduced in 2018.

Out of the 72 laws and major policies reviewed, 44 explicitly noted that IDPs are protected by international law, and 44 explicitly acknowledge IDPs are protected by domestic laws such as a State's constitution. However, only 32 laws and policies explicitly mention the Guiding Principles, and only 21 explicitly endorse its IDP definition. Instead, domestic IDP definitions are frequently limited in three ways: (i) *Explicitly Inclusive*, e.g. Republic of the Sudan's 2009 National Policy; (ii) *Temporally Limited*, e.g. Kosovo applying its *Safe and Sound* only to people displaced between January 1998 and end of March 2004; and (iii) *Geographically Limited*, e.g. emphasis on Kyrgyzstan policy framework that it applies to citizens whose homes were destroyed in June 2010 in two areas of the country.

How these laws and policies address durable solutions (including return, reintegration, and resettlement) also remains narrower than in the Guiding Principles. Even so, on a positive level, there is increasing involvement of IDPs in planning and legal decision-making. Ethiopia's 2017-2020 Durable Solutions Strategy for the Somali Region notes explicitly that 'IDPs, returnees, host community representatives, community leaders, faith-based groups and local government officials need to be fully involved in the planning and implementation of interventions, with specific attention to promoting gender equality.'

However, many of the laws and policies tend to prioritise or exclusively focus on IDP returns, such as: Iraq's 2008 *National Policy* is return-focused even though many IDPs have expressed preferences to resettle or integrate into their host communities; In Afghanistan, there has been significant reluctance to countenance local integration by the population; And, in the case of Colombia, returns were politically exigent as it demonstrated that the government was winning the war

against the guerrilla organisations.

Further, effectively resolving issues relating to housing, land and property rights is integral to fostering durable solutions. At the regional level, the Kampala Convention provides a good model
