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Protecting Internally Displaced Persons: The Role of National Legislation and Policies

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Protecting Internally Displaced Persons: The Role of National Legislation and Policies

Abstract

With over forty million conflict-induced internally displaced persons globally, how the international community provides them with protection and assistance has become a critical issue. A core part of this response has been built around the Guiding Principles on Internal Displacement, first introduced in 1998. The Guiding Principles provide a comprehensive set of durable solutions for IDPs and have been widely recognized at the international level, incorporated into regional law, and introduced in a range of domestic laws and policies. Such efforts at the domestic level should rightly be lauded, however this is only the first step. While some forty States have introduced laws and policies, only one third have been fully implemented and international support in the drafting process has done little to improve these figures. Critical to successful implementation are four factors: timing; the inclusion of independent domestic institutions and democratic electoral systems to ensure accountability; linkages to other regional and domestic processes including peace treaties; and international support not just at the drafting stage but throughout the implementation process. Therefore, across all these factors there is a role for international actors to support these processes and improve the rates of successful implementation of such instruments.

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ASIA PACIFIC CENTRE - RESPONSIBILITY TO PROTECT

PROTECTING INTERNALLY DISPLACED PERSONS: THE ROLE OF NATIONAL LEGISLATION AND POLICIES

OCTOBER 2018



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This report was written by Dr. Phil Orchard¹ a Senior Research Fellow with the Asia Pacific Centre for the Responsibility to Protect and an Associate Professor of International Relations in the School of Humanities and Social Inquiry, University of Wollongong.

Photo acknowledgement: IDPs in Bentiu IDP Camp, South Sudan UN Photo/JC McIlwaine
25 August 2014 Bentiu, South Sudan

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EXECUTIVE SUMMARY

With over forty million conflict-induced internally displaced persons globally, how the international community provides them with protection and assistance has become a critical issue. A core part of this response has been built around the Guiding Principles on Internal Displacement, first introduced in 1998. The Guiding Principles provide a comprehensive set of durable solutions for IDPs and have been widely recognized at the international level, incorporated into regional law, and introduced in a range of domestic laws and policies. Such efforts at the domestic level should rightly be lauded, however this is only the first step. While some forty States have introduced laws and policies, only one third have been fully implemented and international support in the drafting process has done little to improve these figures. Critical to successful implementation are four factors: timing; the inclusion of independent domestic institutions and democratic electoral systems to ensure accountability; linkages to other regional and domestic processes including peace treaties; and international support not just at the drafting stage but throughout the implementation process. Therefore, across all these factors there is a role for international actors to support these processes and improve the rates of successful implementation of such instruments.

Recommendations

1. UN agencies (including UNHCR, UNDP, and OCHA) along with NGOs working on IDP issues (including the International Committee of the Red Cross and the Norwegian Refugee Council) should support states with IDP populations to develop their own laws and policies which reflect the Guiding Principles, including clear durable solutions frameworks.
 - Such efforts can include the explicit inclusion of durable solution frameworks for IDPs within negotiated peace agreements.
2. Beyond assisting with the drafting process, these actors should continue to assist governments in implementing their existing instruments. This support should include:
 - Capacity building in lead ministries for development of the legislation and policies as well as internal procedures;
 - Support to ensure dissemination of new instruments across government and down to the local level;
 - Building up a training capacity for government officials on the instruments and their applicability;
 - Creating structures within government to ensure that IDPs have access to transparent registration systems which track their receipt of durable solutions and ensure IDP access to dispute and settlement mechanisms.
3. On a case by case basis, these actors, liaising with specific UN country teams, should identify domestic institutions – such as the courts or national human rights institutions - and other non-governmental and civil society actors to be involved in these processes.
 - These institutions and actors should be provided with capacity building and training within both the initial policy development phase and the subsequent implementation phase.
 - Depending on their roles, such capacity building can include support to ensure ongoing monitoring of policy implementation including ensuring IDP rights are being respected; ensuring IDPs have access to dispute and settlement mechanisms; and adjudicating disputes.

INTRODUCTION

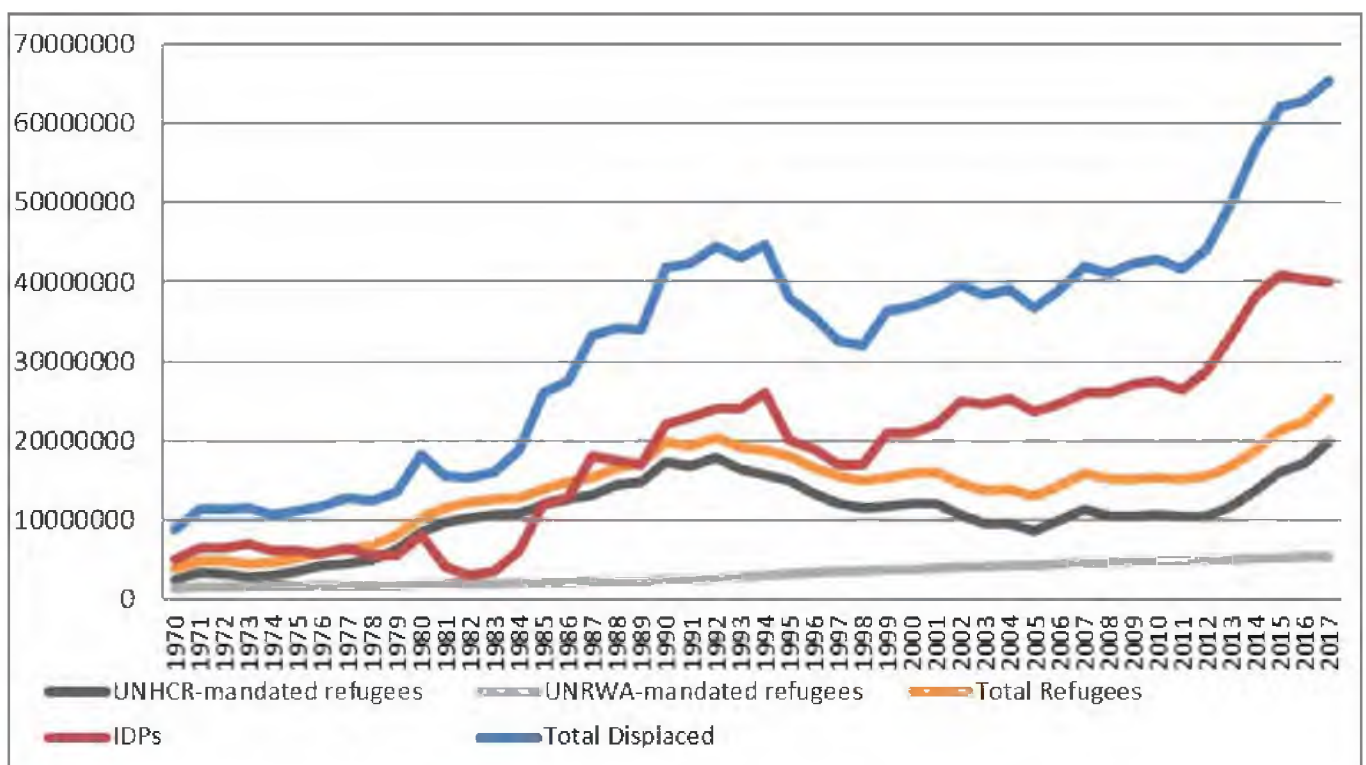
This year, we celebrate the United Nations Guiding Principles on Internal Displacement's twentieth anniversary. Their introduction represented a fundamental shift for how the international community sought to protect and assist internally displaced persons (IDPs). IDPs, like refugees, flee from a range of factors including political persecution, human rights violations, generalized violence and mass atrocities. Since the end of the Cold War, conflict-induced IDPs have consistently outnumbered by a factor of two the world's refugees. As of 2017 there are over 40 million globally (see Figure 1 below).

Unlike refugees, however, IDPs are not protected directly by international law. While refugees receive protections through the 1951 Refugee Convention and its 1967 Protocol, IDPs are instead protected at the global level only by the soft law Guiding Principles. These principles have created a factual definition of IDPs as:

persons or groups of persons who have been forced or obliged to flee or to 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 internationally recognized State border.²

While the Principles are not hard law, they have been widely recognized. Within the United Nations, Secretary-General Kofi Annan argued in 2005 that the guiding principles should be accepted as “the basic international norm for protection” of IDPs³ while the 2005 World Summit Outcome Document recognized the principles as “an important international framework” for IDP protection.⁴ The General Assembly, the Security Council, and the Commission on Human Rights/ Human Rights Council have all acknowledged or recognized the principles.⁵ Regional and sub-regional organizations have also recognized the guiding principles and have disseminated and made use of them.⁶ Thus the most recent UN General Assembly resolution on IDPs, a biannual process, “requests Member States to strengthen their efforts to ensure the protection of and better assistance to internally displaced persons... in accordance with national and regional frameworks, while recognizing the Guiding Principles on Internal Displacement as an important international framework for the protection of internally displaced persons...”⁷

Figure 1: Total Global Forced Migrants, 1970-2017⁸



And, in an important boost, the Principles have entered into regional hard law. In 2006, a Protocol on Protection and Assistance to Internally Displaced Persons was adopted by the eleven member states of the African International Conference on the Great Lakes Region which obliges those states to accept the Principles and incorporate them into domestic law.⁹ In October 2009, the African Union Special Summit of Heads of State adopted the Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention) which came into force in 2012.¹⁰

The international community has made a range of commitments to address the problem of internal displacement. The 2015 Sustainable Development Goals not only recognize forced displacement as threat to reverse development progress, but also note that internally displaced persons are a specific group who are vulnerable and must be empowered. Thus, within the Goals, the international community committed to “take further effective measures and actions, in conformity with international law, to remove obstacles and constraints, strengthen support and meet the special needs of people living in areas affected by complex humanitarian emergencies and in areas affected by terrorism.”¹¹ In 2016, the Secretary-General’s Agenda for Humanity, the framework for the World Humanitarian Summit, identified reducing and addressing displacement as a core responsibility. This commitment included reducing “forced internal displacement by 2030. Commit to a comprehensive global plan to reduce internal displacement in a dignified and safe manner by at least 50 per cent.”¹² Just in the past few months, a new #GP20 campaign has been launched by a range of international and non-governmental organizations to increase international recognition of IDPs as a global issue.¹³ And, in July, 37 states called on the UN Secretary-General to create a High Level Panel on Internally Displaced Persons.¹⁴

And yet, these steps to help IDPs have been overshadowed by the focus on responding to the growth of refugees and other migrants. The New York Declaration for Refugees and Migrants passed by the General Assembly in September 2016 had only one substantive reference to IDPs and that was simply: “We note the need for reflection on effective strategies to ensure adequate protection and assistance for internally displaced persons and to prevent and reduce such displacement [as refugee or migrants].”¹⁵ In other words, in that Declaration, the General Assembly focused on IDP protection and assistance only as a means to reduce the likelihood of them becoming refugees or migrants. And, within the discussions around the Global Compact on Refugees, the current advance text notes only that:

Depending on the context, concerned countries may seek technical guidance on measures to avoid further forced displacement on return (internal or cross-border), and to take into account the situation of internally displaced and non-displaced resident populations.¹⁶

Concerted international action is necessary. Since IDPs remain within their own states, national authorities bear the primary duty and responsibility to provide them with protection and humanitarian assistance. And yet, too often this duty is ignored. States have frequently barred access to IDP populations on sovereignty grounds, or even simply deny that they have IDPs at all. Thus, in 2013 the Syrian Arab Republic took the position that it “was not suffering from a phenomenon called ‘internally displaced persons’ but rather had been subject to a series of terrorist attacks undertaken by armed outlaws. As such, persons being assisted were referred to as ‘people who left their homes as a result of the current events.’”¹⁷ Even when national authorities request assistance from the international community, access to specific IDP groups may be blocked by difficult terrain, by a lack of resources, by danger from lawlessness or from armed opposition, or inabilities on the part of the governmental bureaucracy to agree on a coordinated response.

At the extreme, governments may deliberately displace their own populations through ethnic cleansing or other forms of atrocity crimes in violation of international law and the Responsibility to Protect doctrine. Ethnic cleansing has not been defined as an international crime in law in its own right.¹⁸ However, actions which constitute forcible transfers within a state’s territory can qualify as both war crimes and crimes against humanity depending on the circumstances. The Rome Statute of the International Criminal Court includes “deportation or forcible transfer of population,” the forced displacement of persons by expulsion or other coercive acts from areas in which they are lawfully present without grounds permitted under

international law, as a crime against humanity “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”¹⁹

The Guiding Principles advance this further by making a clear duty to prevent arbitrary displacement explicit. Principle 6 establishes that “every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.” The Principles also provide an illustrative list of situations in which displacement would be arbitrary which include:

- (a) When it is based on policies of apartheid, “ethnic cleansing” or similar practices aimed at or resulting in alteration of the ethnic, religious or racial composition of the affected population;
- (b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
- (c) In cases of large-scale development projects that are not justified by compelling and over-riding public interests;
- (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and
- (e) When it is used as a collective punishment.²⁰

Consequently, not only does introducing domestic legislation and policies in line with the Guiding Principles help to ensure assistance and protection to internally displaced populations, but it also provides them protection against mass atrocity crimes.

The 40 states which have now introduced domestic legislation and policies represent an important step forward in this process. However, I argue that introducing such policies is not enough. Instead, they need to be clearly linked to the Guiding Principles and also need strong support from international actors at both the drafting and implementation stages in order to build state capacity.

THE GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT AND DURABLE SOLUTIONS

The Guiding Principles on Internal Displacement were created in 1998 in a process led by the-then Representative of the Secretary-General on Internally Displaced Persons, Francis Deng. While the Principles are soft law, they use as their foundation existing international human rights law (including the UN Charter, the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights), humanitarian law (including the four Geneva Conventions of 1949, as well as Protocols I and II of 1977) and refugee law (including the Refugee Convention of 1951 and the Refugee Protocol of 1967) to lay out the protections that IDPs are entitled to as citizens of their own State and as human beings. As Walter Kälin, the former Representative of the Secretary-General for the Human Rights of Internally Displaced Persons, has argued:

It is possible to cite a multitude of legal provisions for almost every principle...Because of that solid foundation, as well as the breadth of rights covered and the wide acceptance the Guiding Principles have found, it can persuasively be argued that they are the minimum international standard for the protection of internally displaced persons.²¹

Thus, the next sections will discuss the specific protections offered by the Guiding Principles to IDPs throughout the displacement cycle. But it is important to note that almost always these Principles are underpinned by existing international law.

IDP Rights

Principle 1 establishes a non-discrimination clause, noting IDPs “shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be

discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.” Principles 10 to 23 then recognize a range of specific rights that IDPs have. These include rights against arbitrary deprivation of life; to dignity and physical, mental, and moral integrity; to liberty and security of persons; against forced recruitment; to liberty of movement and to seek asylum; to knowing the whereabouts of missing relatives; to family life; to an adequate standard of living; to medical care; to not be arbitrarily deprived of property and possessions; to freedom of thought, employment, association, political participation, and communication, and to education. This also includes a right to be recognized before the law, with the authorities needing to issue them all documents necessary for this including either new document or replacement of documents lost in the course of displacement.

The Guiding Principles also establish a set of responsibilities towards IDPs on the part of the states, non-state actors, and international actors. Principle 2 notes that the Principles “shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction.” Principle 5 establishes that national authorities and international actors are expected to respect their obligations under international law to prevent and avoid conditions which might lead to displacement.

Principle 7 focuses on national authorities’ responsibilities towards their own citizens in cases where they may need to be deliberately displaced. It notes that national authorities should seek to avoid displacement but where no alternatives exist “all measures shall be taken to minimize displacement and its adverse effects.”

National authorities are also expected to provide a series of sequential guarantees in such cases. First, a specific decision must be taken by a competent state authority. Second, those who are to be displaced should be provided with full information on why they are being displaced and where applicable need to be advised on compensation and relocation assistance. Third, their free and informed consent shall be sought. Fourth, the authorities will involve them in planning and management of the relocation. Fifth, any law enforcement measures required shall be carried out by competent legal authorities. And, finally, those who are to be displaced need to have a right to an effective remedy including the review of decisions by appropriate judicial authorities.

Rights related to Humanitarian Assistance

The Principles also lay out duties and rights with respect to the provision of humanitarian assistance. Principle 3 establishes that the primary duty to provide protection and humanitarian assistance lies with the national authorities. This reflects the “generally recognized principle of sovereignty.”²² But the Principles modify this provision in two ways. First, Principle 3(2) establishes that IDPs “have the right to request and to receive protection and humanitarian assistance from these authorities.” The second, in Principle 25, establish that international humanitarian organizations can offer assistance to the state, and that “consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.” Authorities are expected to “grant and facilitate the free passage of humanitarian assistance” and to provide humanitarian organizations with rapid and unimpeded access to the internally displaced. International humanitarian organizations also have obligation to IDPs, and are particularly expected to “give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard.”

Rights related to Durable Solutions

The final aspect the Principles cover is related to durable solutions for IDPs, and Principles 28 to 30 focus on return, resettlement, and reintegration. First, they establish that competent authorities have the primary duty to establish conditions which allow IDPs to return home voluntarily or to resettle or reintegrate elsewhere in the country. Here, the Principles mimic the three primary durable solutions for refugees - voluntary return, integration into a host State, or resettlement to a third State. Following this process, IDPs shall not be discriminated against, and the authorities also have the responsibility to assist IDPs in recovering to the extent possible their property and possessions, or otherwise to assist them in obtaining compensation or another form of just reparation.

The right to voluntarily return is an area in which the Principles have extended international law. Beyond the above provisions, Principle 15 establishes that “internally displaced persons have a) the right to seek safety in another part of the country... and (d) the right to be protected against forcible return to or re-settlement in any place where their life, safety, liberty or health would be at risk.” Kälin has argued that this principle is well established “in the refugee law principle of non-refoulement, and in major human rights protections relating to torture and the deportation of aliens.” While it is novel as applied to IDPs, he argues that states bear responsibility for violations of the non-refoulement principle in refugee law and for forcibly returning aliens to situations of danger and that similar reasoning can be applied to IDPs. Therefore, “it is clear that states bear an affirmative duty to insure internally displaced persons are not compelled to return to or be resettled in places where their lives or liberty are at risk.”²³

When Displacement Ends

The Guiding Principles, however, do not establish other grounds for when displacement ends. For refugees, the 1951 Refugee Convention includes in Article 1 C a set of cessation clauses. The first four clauses establish that refugee status ceases when the refugee themselves change their situation, including the voluntary reavailing of national protection; voluntarily re-acquisition of nationality; the acquisition of a new nationality; or their voluntary re-establishment in the country where persecution was feared. The last two clauses reflect changes in the refugee’s country of origin which mean that international protection is no longer justified.²⁴ These latter clauses require a formal decision by either UNHCR or the country of asylum. It can be done on either an individual or group basis, but the refugee must be able to challenge the decision, and they can continue to claim refugee status if they have compelling reasons arising out of previous persecution, such as if they had been subject to atrocious forms of persecution. The burden of proof for cases of cessation lies on UNHCR or the state of refuge, rather than the refugee.²⁵ Because of the complexity of this process, it tends to be used rarely, with one study suggesting cessation clauses had only been invoked by UNHCR some 21 times between 1973 and 1999, and that they were little used by States.²⁶

By contrast, the Guiding Principles are silent on this issue other than noting in Principle 6(3) that “displacement shall last no longer than required by circumstances.” Some commentators have suggested that a cessation clause should be added for situations in which the need for protection and assistance to IDPs has ceased such as through voluntary return or through voluntary and permanent resettlement within the country.²⁷ This ambiguity means that while UNHCR has clear criteria for when someone stops being a refugee, “there is no alternative cut off point for IDP status, with the result that IDPs can remain ‘on the books’ so to speak for many years following initial displacement irrespective of their ongoing situation.”²⁸

In an effort to respond to this issue, in 2007 the Brookings-Bern Project on Internal Displacement introduced a framework for durable solutions. It notes that “displacement ends when one of these durable solutions occurs and IDPs no longer have needs specifically related to their displacement.”²⁹ In order to do so, “an analysis of the individual’s access to rights needs to take place for each situation,” an analysis which will include both subjective and objective elements.³⁰ The report, therefore, proposes a two-step process. The first step sees IDPs provided with information and active participation to enable their voluntary decision which to return, resettle, or locally integrate. Following this decision, the second step lasts until IDPs are sure of their safety, of their rights and non-discrimination, and after they have received reintegration support, and ends when this is confirmed.³¹

Such support is critical not only for IDPs, but also for returning refugees. Refugee return has been raised as a key issue within the Global Compact for Refugee negotiations. But it is also critical to focus on the refugee-IDP relationship holistically for three reasons. The first is that there is a strong correlation between IDP and refugee movements- the countries that produce the most refugees also tend to produce the most IDPs such as Syria, South Sudan, and Afghanistan. The second is that the IDP-refugee relationship is dynamic at the individual level, with the decisions forced migrants make, while bound up in macro-level factors, directly influencing their decisions to flee within their own country, to seek asylum in another country, and the decision whether to return. Finally, and as the New York Declaration acknowledged, IDPs can become refugees. But returning refugees, too, can easily become IDPs following their return. Globally, due to a lack of data we have no clear picture of how often either the process of IDPs becoming

refugees, or returning refugees becoming IDPs, occurs. As the Internal Displacement Monitoring Centre (IDMC) noted in their annual report this year, “there is currently not enough research or data to understand the exact relationship between internal displacement, cross-border movement and return.”³²

It is clear that the risk of returning refugees becoming IDPs significantly increases following unprepared, involuntary, or premature returns. To give one example, of Afghanistan, alongside approximately 372,000 refugees whose returns were supported by UNHCR with a \$400 cash grant, a 2017 study by Belquis Ahmadi and Sadaf Lakhani for the US Institute of Peace found that there were an additional 682,000 who engaged in spontaneous returns from Pakistan and Iran, driven primarily by increasingly strict restrictions being placed on refugees by Pakistani authorities. As they note, “returnees are entering a country wracked by violence, economic instability, and lack of basic services in most part of the country,”³³ all dynamics likely to trigger internal displacement. Consequently, effective implementation of the Guiding Principles around durable solutions not only provides a protection mechanism for IDPs, but also for many returning refugees.

NATIONAL IDP LAWS AND POLICIES

While the Guiding Principles are soft law, there has been a long pattern of states with IDP situations being encouraged to adopt their own domestic legislation and policies. The UN General Assembly has encouraged “States to continue to develop and implement domestic legislation and policies with all stages of displacement...”³⁴ UNHCR notes that as part of its specific commitment to IDPs, it supports “States’ efforts to adopt, update, or prepare national policies on IDPs.”³⁵

However, while some forty states have now passed such laws and policies, the significant majority since the Guiding Principles have been adopted (see Figure 2 and Table 1 below, while a table in the appendix provides full details on the individual laws and policies). There is clear regional variation here, with a significant number of the law and policies having been introduced in Africa. By contrast, within the Asia-Pacific region, few states have yet adopted laws or policies with only Indonesia and Timor-Leste having introduced instruments, while the Philippines have an instrument at the draft stage.

Within the domestic laws and policies themselves, there is clear acceptance that IDPs require some form of international protection. Not only do a majority provide for the provision of international assistance (46 laws and policies), but 41 laws and policies also note explicitly that IDPs are protected by international law, and 41 also note that they are also protected by some form of domestic law such as a State’s constitution. However, this widespread acceptance may reflect state understanding of either international treaty law (which reflects these concepts) or protections within their own formal domestic legislation.

Figure 2: Number of Domestic Laws and Policies Introduced Annually

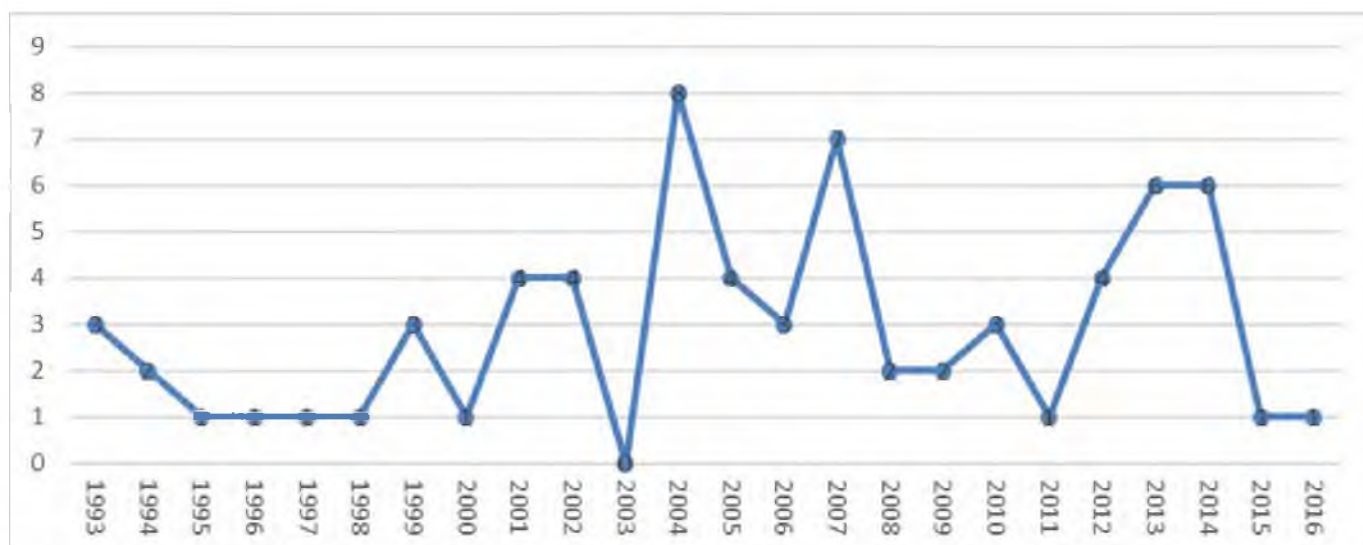


Table 1: States that have Introduced Domestic Laws and Policies

State	Year First Introduced	State	Year First Introduced
Afghanistan	2005	Mexico	2012
Angola	2001	Nepal	2004 (draft)
Armenia	1998	Nigeria	2012 (draft)
Azerbaijan	1997	Peru	2004
Bosnia Herzegovina	1995	Philippines	2013 (draft)
Burundi	2000	Russia	1993
Central African Republic	2014 (draft)	Serbia	2002
Colombia	1997	Sierra Leone	2001
Croatia	1993	Somalia	2014
Democratic Republic of Congo	2014 (draft)	South Sudan	2011
Georgia	1996	Sri Lanka	2002
Guatemala	1992	Sudan	2009
India	2004	Tajikistan	1994
Indonesia	2001	Timor-Leste	2007
Iraq	2008	Turkey	2005
Kenya	2012	Uganda	2004
Kosovo	2009	Ukraine	2014
Kyrgyzstan	2110	Yemen	2013
Lebanon	1993	Zambia	2013
Liberia	2002	Zimbabwe	2008

By contrast, only 30 explicitly mention the Guiding Principles, and only 19 explicitly endorse its IDP definition.³⁶ Instead, many instruments either do not define IDPs, or define them in a limited way as either encompassing fewer causes than the Principles' definition or by introducing geographic or temporal limitations. Thus the Kyrgyz government's national policy only notes that it applies to citizens whose homes were destroyed in June 2010 in two areas of the country. Kosovo has adopted the Principles' definition, but applies it only to people displaced between January 1998 and the end of March 2004. Bosnia's 1999 law covered only citizens who had fled after April 1991 for reasons similar to the Refugee Convention's nexus clause. Ukraine's first IDP resolution in 2014 required IDPs to be citizens and permanent residents who had come from temporarily occupied territory.

A further issue is that while many laws and policies have some focus on durable solutions, they have a tendency to prioritize returns over other forms of solutions which frequently leave IDPs who cannot return with little assistance and support. To give a few examples, while Angola was the first country to bring the Guiding Principles into domestic law, in practice there was widespread forced return of IDPs following the end of the war in 2002 and little support provided on a long term basis for returnees. While Kosovo also adopted strategies aligned with the Guiding Principles, it too focused on returns, a standard started by the UN Mission. Liberia's policy similarly focused on returns, and only provided return assistance to IDPs who had been registered in camps by the WFP for food distribution purposes. Iraq's national policy is return focused even though many IDPs have expressed preferences to resettle or integrate into their host communities. Turkey's national IDP strategy prioritizes returns, though it does allow for assistance and support for integration into new areas. And Georgia only slowly shifted away from prioritizing IDP returns, fully implementing its 2007 State Strategy only after the 2008 Russo-Georgian War ended the likelihood of significant IDP returns.

An added problem is that while many policies and laws provide for registration processes for IDPs, these may not be updated to ensure that registered IDPs have received durable solutions. In Armenia, for example, the last official registration exercise took place in 2004, at which point it was estimated that 8,400

IDPs remained who have since received no support by the government. In Peru, the national registry does not distinguish between those who remain displaced and those who have found a durable solution and the government has been criticized for registering few new IDPs.

Issues over property rights can also lead return and other durable solution processes to remain unfinished. In Bosnia, for example, there was a significant international focus on IDP returns, however there was lack of funding for reconstruction; court rulings significantly increased the costs for IDPs to recover property; and minority returnees frequently faced discrimination and reprisals. Afghanistan's national policy is effectively defunct due to land rights issues at the local level.

Beyond their content, there is the question of whether or not these policies and laws are actually implemented. I gauge implementation on the following five point scale:

- Strong implementation reflects not only that the State has clearly committed to implementing legislation or policies with explicit reference to the Guiding Principles and other applicable international and humanitarian standards, but that there is clear evidence of ongoing support for the law or policy, including identified organizational support and significant financial contributions by the government.
- Progressing implementation occurs where the State has clearly committed to implementing legislation or policies, but where these either are not fully in accord with the Guiding Principles or reflect either a limited IDP definition or limited provision of durable solutions (such as a focus on return rather than other forms). There is also clear evidence of organizational support, but capacity may be limited.
- Limited implementation occurs where the State has made clear commitments to implementing legislation or policies, but that actual practice has been limited with no clear IDP definition, limited support for a range of durable solutions, or lack of ongoing support for IDPs.
- Problematic implementation occurs where the State has introduced legislation or policies, but where implementation has generally not occurred either due to a lack of capacity or political will, or where the law or policy is being widely ignored by State officials.
- No implementation reflects cases where a policy or law may exist, but is only in a draft stage or the government undertaken no action to implement it. The draft stage is included here because in several cases processes have stalled out at this stage.

Figure 3: Implementation of Laws and Policies



Here, too, the record is problematic - less than a third of these instruments have been implemented without significant issues (see Figure 3). More often, ad hoc or limited implementation means that IDPs are not adequately covered and that even when problems are correctly identified, there are no steps taken to

fix them, or that good faith efforts to introduce laws and policies are stymied by domestic opposition. In nine cases, the laws or policies have never been implemented, either remaining in draft form for years or simply reflecting aspirational claims which the government was unable or unwilling to follow.

Most policies and laws also clearly indicate a government bureaucracy which will take a lead role in assisting and protecting IDPs, which are either existing bureaucracies being assigned a new role, or which see new bureaucracies being established to fulfil this role. But these bodies are frequently underfunded, under-resourced, and lack clear lines of authority within government.

Further, while international support has become an important element in many states' drafting processes and tends to lead to better laws and policies, it has had less effect on implementation rates. Of the 30 laws and policies which mention the Guiding Principles, 18 were drafted with international support. Of the 18 which use the Guiding Principles' definition, 15 were drafted with international support. However, such support does not appear to improve the rate of implementation at all. Of the 33 laws and policies drafted with such assistance, only thirteen have been robustly implemented (either strong or progressing on the five point scale). An equal number -13- have had significant implementation issues, and 7 of those laws and policies have not been implemented at all.

Why do implementation efforts stall out? I suggest there are three explanations. The first is that the government does commit to the norms embodied within the guiding principles, but is unable to proceed forward in the implementation process. This may be due to a lack of state capacity whereby the government lacks the necessary financial, practical and symbolic resources to ensure implementation: "in many cases, governments have been too weak to prevent displacement and mitigate its effects."³⁷

This can also happen due to domestic opposition within and outside of the government created either due to the content of proposed instruments or a failure to engage with local actors and other stakeholders. Afghanistan provides a cautionary example of such issues. Its 2013 National Policy on Internally Displaced Persons has been described by the Internal Displacement Monitoring Centre as a landmark which established a comprehensive framework of rights for IDPs.³⁸ In drafting the policy the government was assisted by a range of international actors including UNHCR, OCHA, the NRC, and IOM. Yet, its implementation has been problematic not only due to the ongoing Taliban insurgency, but also two issues within government. The Ministry of Refugees and Repatriation, tasked with leading policy implementation, lacks resources, capacity, and political clout within government. Second, while many IDPs have expressed interests in integrating locally, issues over land rights has meant that there is significant opposition at the provincial and local levels and little movement forward on action plans. The combination of these two factors meant that following a series of interviews with members of the Afghan government, UN agencies, and NGOs, Willner-Reid noted that most interviewees "openly doubted that many government employees had heard of [the policy], let alone read it."³⁹

Alternatively, implementation stalling may reflect the government having decided to make a strategic rhetorical commitment to the norms embodied within the Guiding Principles by introducing laws or policies with no plan to actually implement them. Two alternatives exist here. The first reflects the widespread international support for norms around IDP protection. Due to this, governments which have internally displaced populations may be driven by reputational concerns⁴⁰ to rhetorically support these norms. Therefore, by introducing domestic policies or laws, these states seek to signal their support for the regime at the international level without consummate changes at the domestic level.⁴¹

States may also be responding to advocacy efforts from IOs and NGOs. This may reflect a process of persuasion which shifts the government's or key decision makers' views on the issue, leading to a normative commitment. Alternatively, the shift in behaviour may reflect these organizations' influence on governments through conditionality policies which provide international actors direct influence over the internal affairs of developing states on a range of issues.⁴² For example, UNHCR advocates with governments in

favour of the “implementation of a national policy and plans of action that would enhance the protection of IDPs” and also provides government support to do so including by seconding inter-agency protection standby capacity project (ProCap) advisers.⁴³ This institutional involvement may cause governments to create policies or laws where they otherwise may not have taken action; absent further engagement, however, there will be little follow-through implementation.

In either case, the decision to take rhetorical action by introducing either national legislation or policy around IDP protection opens up governments to the possibility of rhetorical entrapment. While they may lack incentives to undertake concrete actions, a government’s public stance may open them up to international shaming efforts based on the legitimacy and widespread acceptance of the norms around IDP protection. Such efforts may lead the government to subsequently take actions in order to ameliorate or reduce pressure.⁴⁴ As an example, while Uganda had adopted a strong on paper IDP policy in 2004, there were significant critiques around the government’s implement process until the government was singled out by the UN Security Council to respond to the humanitarian situation.⁴⁵ The Ugandan government pointed to the policy as clear evidence they had taken action, and quickly undertook a range of concrete implementation steps including creating a new joint monitoring mechanism with the UN.

HOW CAN WE IMPROVE IMPLEMENTATION?

While the overall implementation picture is mixed, a number of States have successfully implemented their own IDP legislation and policies. Across these cases, four important factors are clear: timing; the involvement of independent domestic institutions; clear linkages to other regional and international processes; and, finally, ongoing international support.

First, timing can be critical. Successful laws and policies tend to be introduced for two reasons: early response and peace agreements. Not surprisingly, a number of laws and policies are introduced within two years of the initial onset of internal displacement. This reflects governments which recognize the need for a response and prioritize clear policy for guidance. But it also recognizes a high level of attention given to the crisis at both domestic and international levels. For example, in Croatia the government had created an office to provide assistance to IDPs in 1991, the same year its war of independence began, and within two years had created a clear legislative framework. In Ukraine, the government’s first efforts occurred within months of the outbreak of conflict, and it has continued to amend its laws and regulations following domestic and international concerns.

Like with Ukraine, policies can also be introduced to acknowledged failures in the initial response efforts. Thus, Kenya’s government drafted a new policy in 2010 in response to inadequate and uncoordinated responses to the post-election violence in 2007 and 2008; while this policy did not end up being approved, the government introduced new legislation in 2012 to ensure national-level coordination.

Peace agreements also can lead to successful implementation, but here the picture can be more complex. While this has led to a number of robust records of implementation, this also reflects high rates of assisted and spontaneous returns following the end of conflict. Liberia committed to its National Community Resettlement and Reintegration Strategy in 2002, the year after the Accra Comprehensive Peace Agreement was signed, but it was successful because the end of the war triggered large scale supported and spontaneous returns, with the vast majority of IDPs having returned by 2006. Similarly, Sierra Leone’s resettlement strategy was introduced in October 2001, three months before fighting in its civil war would end but following a series of agreements between the government and rebels. There too a high rate of returns meant its official program was completed within a year through a combination of supported and spontaneous returns.

Without fast returns, however, commitments in peace agreements can languish or be ignored as governments shift to new priorities. In Angola following the 2002 peace agreement, new implementing regu-

lations were quickly introduced to ensure implementation of its 2001 Norms for the Resettlement of Internally Displaced Persons, a process hailed by international actors. But while large scale returns did occur, the government demonstrated little commitment to its own policies. Similarly, Burundi's Arusha Accords explicitly committed the government to encourage IDP return, resettlement, and reintegration, but these commitments were widely ignored over the following years except for the encouragement of some return efforts. In Guatemala, an agreement to resettle those displaced by the civil war, signed as part of the wider peace process, gradually ran into difficulties as the government moved away from IDP-specific processes to target poor populations as a whole.

In addition, successful implementation is frequently marked by independent domestic institutions that can support the process and serve as accountability checks through monitoring, providing independent information and, where possible, seeking to ensure the government follows the outlined process. These institutions include the courts and national human rights institutions, but also national and local NGOs and other civil society organizations. With respect to the role of the Courts, Colombia's Constitutional Court has played a critical role in ensuring that the government amend legislation and improve data gathering. Similarly in Georgia, its Constitutional Court pushed the government to amend legislation to include all people who had been displaced by armed conflict as IDPs, not just those in occupied territories. Demonstrating also the importance of civil society, this action was begun by the Georgian Young Lawyers' Association, and the ensuing legislation has been monitored by Georgia's Public Defender. In the Philippines, local civil society actors continue to push for IDP legislation with support from politicians in Congress. The role of elections also matter. Sri Lanka's response improved significantly due to the change in government following its 2015 elections.

Linkages with other regional and international processes can help support these processes. In Croatia, for example, laws and policies were deliberately implemented in a discriminatory manner towards displaced Serbs, a problem that was resolved due to EU pressure through Croatia's accession process. In Uganda, policy implementation efforts sped up considerably after the government was directly called out by the UN Security Council to renew its commitment. But, once again, these linkages may not be enough on their own. A number of governments in Africa have also made commitments to national level laws and policies as a part of either the Great Lakes or Kampala processes, but in several cases including Democratic Republic of Congo these remain in draft form.

Finally, international support mechanisms need to be provided on an ongoing basis. International support during the drafting process does improve the content of these laws and policies and should be continued. At the same time, ongoing international support during the implementation process is equally critical for two reasons. First, it can backstop state efforts and make up for an initial lack of capacity and then help to build that capacity at the national and local levels. This requires direct financial support to governments to assist them and, importantly, to create their own capacity, rather than having international organizations simply parachute into government, draft policies, and then leave. It also requires building government capacity at the national and local levels. This needs to include international efforts to identify and support lead ministries involved in the roll out of these laws and policies. It also means ensuring that government officials receive training on how these instruments work.

International support can also be used to identify and support other domestic actors both within government and within civil society who are positioned to ensure state accountability. Here, too, a similar framework of first training, and then capacity building, can play important roles in ensuring that these organizations can help assist the implementation process.

CONCLUSIONS AND RECOMMENDATIONS

Given the soft law framework of the Guiding Principles on Internal Displacement, efforts to introduce laws and policies for IDPs at the domestic level are critical to ensure that they receive protection and assistance. Yet, while the introduction of such instruments is a positive development, too often there is a fairly to then follow through and ensure they are properly implemented.

While we have forty states with policies and laws, the record on these remain mixed not only in terms of how (and even whether) they reflect the Guiding Principles, but also in how they are or are not being implemented. In only twelve of those states have these policies and laws been implemented in a consistent manner, and even in those cases there are issues of alignment with international standards. Further, there is a clear disconnect between international efforts and these domestic policies and laws – while creating them is a core objective of UNHCR and other UN-based agencies, too often there is a lack of follow-through, or even engagement with governments around them.

Successful implementation is linked both to state capacity but also the presence of independent accountability mechanisms. Therefore, there is a role for international actors to support these processes and improve the rates of successful implementation of such instruments:

1. UN agencies (including UNHCR, UNDP, and OCHA) along with NGOs working on IDP issues (including the International Committee of the Red Cross and the Norwegian Refugee Council) should support states with IDP populations to develop their own laws and policies which reflect the Guiding Principles, including clear durable solutions frameworks.
 - Such efforts can include the explicit inclusion of durable solution frameworks for IDPs within negotiated peace agreements.
2. Beyond assisting with the drafting process, these actors should continue to assist governments in implementing their existing instruments. This support should include:
 - Capacity building in lead ministries for development of the legislation and policies as well as internal procedures;
 - Support to ensure dissemination of new instruments across government and down to the local level;
 - Building up a training capacity for government officials on the instruments and their applicability;
 - Creating structures within government to ensure that IDPs have access to transparent registration systems which track their receipt of durable solutions and ensure IDP access to dispute and settlement mechanisms.
3. On a case by case basis, these actors, liaising with specific UN country teams, should identify domestic institutions – such as the courts or national human rights institutions - and other non-governmental and civil society actors to be involved in these processes.
 - These institutions and actors should be provided with capacity building and training within both the initial policy development phase and the subsequent implementation phase.
 - Depending on their roles, such capacity building can include support to ensure ongoing monitoring of policy implementation including ensuring IDP rights are being respected; ensuring IDPs have access to dispute and settlement mechanisms; and adjudicating disputes.

Appendix: Domestic IDP Policies or Legislation

This Appendix table provides a list of some 69 laws and policies passed by 40 States until the end of 2016 (minor policies and amendments are not included) which have been analysed by the author. This briefly summarizes a range of data from a forthcoming publication, *Protecting the Internally Displaced: Rhetoric and Reality* (Routledge, forthcoming).

The table lists whether the definition from the guiding principles (GP DEF) is used, whether IDP rights included in the document refer to domestic sources of law (D), the guiding principles (GPs), or other international law (IL) and whether the document accepts a right of the international community to provide aid (AID). It lists the governmental bureaucracy given responsibility for assisting the displaced, and whether or not this is a new entity.

State	Year	Law/Policy	GP DEF	D	GPs	IL	AID	Change in domestic institutions (Italics denote new bureaucracy created)	International involvement	Effective Implementation	Key Issues
Afghanistan	2005	IDP National Plan			Yes	Yes	Yes	Ministry of Rural Rehabilitation and Development (MoRR); Ministry of Refugees and Repatriation; Ministry of Frontiers and Tribal Affairs; Afghanistan Natural Disaster Management Authority (ANDMA)	No	Problematic	Capacity and land rights issues limited implementation
	2013	National Policy on Internally Displaced Persons	Yes	Yes	Yes	Yes	Yes	MoRR	Yes		
Angola	2001	Council of Ministers Decree No. 1/01-Norms on the Resettlement of Internally Displaced Populations			Yes		Yes	Reactivated Provincial Sub-groups on Displaced persons and Refugees,	No	Limited	Little government commitment but widespread returns occurred.
	2002	Council of Ministers Decree No. 79/02	Yes				Yes	<i>National Commission for Social and Productive Reintegration of Demobilised Personnel and Displaced Populations</i>	No	Limited	
Armenia	1998	Law on Population Protection in Emergency Situations		Yes		Yes		Republic of Armenia Government has monitoring role; State Migration Service in the Ministry of Territorial Administration	No	Limited	Significant returns, but no follow up survey activity.
Azerbaijan	1999	Presidential Decree 'On status of refugees and forcibly displaced (persons displaced within the country) persons'		Yes		Yes		Executive authorities of the Republic of Azerbaijan.	No	Limited	Focus on return only.
	1999	Law 'On social protection of forcibly displaced persons and persons equated to them'		Yes		Yes	Yes	State Committee on the refugees and forcibly displaced persons	No		
	2004	Presidential Decree 'State Program for the Improvement of living standards and generation of employment for refugees and IDPs'					Yes	Implementation assigned to Cabinet of Ministers, updates to President	No	Progressing	Legislation still not conforming to GPs.

State	Year	Law/Policy	OP MF	IDP			AID	Change in domestic institutions (Italics denote new bureaucracy created)	International Involvement	Effective Implementation	Key Issues
				D	GRs	IL					
Bosnia Herzegovina	1995	General Framework Agreement for Bosnia and Herzegovina, Annex VII				Yes	Yes	<i>Refugees and Displaced Persons Property Fund</i>	Yes	Pro-gressing	Implementation affected by property rights and issues accessing rights
	1999	Instruction on the Return of Bosnian Refugees and Displaced Persons to/within the Territory of Bosnia and Herzegovina					Yes	Department for Refugees	Yes		
	2005	Law on Displaced Persons and Returnees in the Federation of Bosnia and Herzegovina and Refugees from Bosnia and Herzegovina		Yes			Yes	Federation Government/ Ministry for Human Rights and Refugees	Yes		
	2005	Law on Displaced Persons, Returnees and Refugees in the Republika Srpska		Yes		Yes	Yes	Ministry for Refugees and Displaced Persons	Yes		
	2010	Revised Strategy of Bosnia and Herzegovina for the implementation of Annex VII of the Dayton Peace Agreement (DPA)							Yes	Strong	However strategy unfinished due to lack of international funds.
Burundi	2000	Arusha Peace and Reconciliation Agreement for Burundi, Protocol IV				Yes RC	Yes	<i>National Commission for the Rehabilitation of Sinistrés; National fund</i>	Yes	Problematic	Documents widely ignored by government
	2001	Protocol for the Creation of a Permanent Framework for Consultation on the Protection of Displaced Persons		Yes	Yes	Yes	Yes	<i>Committee for the Protection of Displaced Persons; Technical Group for Follow-Up</i>	Yes		
	2004	Programme National de Réhabilitation des Sinistrés					Yes	<i>Ministry for Repatriation, Reinstallation and Reinsertion of Displaced and Repatriated Persons; National Commission for Land and Other Possessions</i>	No	Problematic	Follow up program focused on return, but issues with long term resettlement.
Central African Republic	2014	Draft National Law and Policy on Internal Displacement	Yes	Yes	Yes	Yes	Yes	The Ministry of Health, Gender Promotion and Humanitarian Action	Yes	None	Draft not passed, government lacks capacity and authority.
Colombia	1997	Law 387 on internal displacement		Yes		Yes	Yes	<i>National Council for Comprehensive Assistance to Populations Displaced by Violence</i>	Yes	Strong	Colombian Constitutional Court has ensured improved implementation; additional legislation passed in 2005 and 2011. Implementation has been limited in areas without strong government presence.
Croatia	1993	Law on the Status of Displaced Persons and Refugees		Yes				Office for Displaced Persons and Refugees	No	Initially Limited; then Pro-gressing	Discriminatory policies towards minority IDPs. Improved standards since 2000 and most IDPs have returned.

State	Year	Law/Policy	GP DEF	IDP D	GPs	IL	AID	Change in domestic institutions (Italics denote new bureaucracy created)	International Involvement	Effective Implementation	Key Issues
Democratic Republic of the Congo	2014	Draft national law	Yes	Yes	Yes	Yes	Yes		Yes	None	Law stalled at review stage since 2014.
Georgia	1996	Law on Forcibly Displaced Persons-Persecuted Persons						<i>Ministry of Refugees and Accommodation of Georgia</i>	No	Limited	Narrow in scope
	2006	Law of Georgia on Internally Displaced Persons		Yes		Yes	Yes	<i>Ministry of Refugees and Accommodation of Georgia</i>	No	Limited	IDP definition remained limited.
	2007	Law on Property Restitution and Compensation for the Victims of Conflict		Yes		Yes	Yes	<i>Commission on Restitution and Compensation</i>	No	Limited	Focus on return
	2007	Decree #47 on Approving of the State Strategy for Internally Displaced Persons		Yes	Yes	Yes	Yes	Ministry of Refugees and Accommodation of Georgia	Yes	Progressing	Implementation delayed
	2014	Law of Georgia on the Internally Displaced Persons (Refugees) from the Occupied Territories of Georgia		Yes	Yes	Yes		Ministry of Internally Displaced Persons from Occupied Territories, Accommodation and Refugees of Georgia	Yes	Progressing	IDP definition remains limited; implementation frustrated by lack of resources.
Guatemala	1994	Agreement on Resettlement of the Population Groups Uprooted by the Armed Groups		Yes		Yes	Yes	<i>Technical Committee</i>	Yes	Problematic	Many IDPs not recognized
India	2004	National Policy on Resettlement and Rehabilitation for Project Affected Families (development only)		Yes				<i>National Monitoring Committee</i>	No	None	Lack of systematic response to conflict-induced displacement
	2007	The National Rehabilitation and Resettlement Policy									
Indonesia	2001	National Policies on the Handling of Internally Displaced Persons/Refugees in Indonesia						Provincial governors	Yes	Problematic	Discontinued in 2004
	2007	Law on Disaster Management			Yes	Yes	Yes	<i>National Disaster Management Agency</i>	No	Problematic	Law uses “pengungsi” which refers to both refugees and IDPs
	2012	Law Concerning Handling of Social Conflict			Yes	Yes			No	Problematic	Ongoing displacement in West Papua, other areas ignored.
Iraq	2008	National Policy on Displacement	Yes	Yes	Yes	Yes	Yes	Line ministries and institutions; <i>IDP Ministerial Committee; Supreme Committee for Displaced Person; Ministry of Displacement and Migration</i>	Yes	Problematic	Failure to implement, heavily focused on returns.
Kenya	2012	The Prevention, Protection and Assistance to IDPs and Affected Communities Act, 2012	Yes	Yes	Yes	Yes		<i>National Consultative Coordination Committee on Internally Displaced Persons</i>	Yes	Progressing	Legislation has been impeded by failure to adopt draft IDP policy.
	2010	Draft IDP policy	Yes	Yes	Yes	Yes	Yes		Yes		

State	Year	Law/Policy	Change in domestic institutions (Italics denote new bureaucracy created)	IDP	IDP	IDP	AD	Change in domestic institutions (Italics denote new bureaucracy created)	International Involvement	Effective Implementation	Key Issues
Kosovo	2009	Strategy for Communities and Returns for 2009-2013		Yes		Yes	Yes	Ministry of Communities and Return (MCR)	No	Limited	Focus on returns instead of other durable solutions, little implementation of housing assistance.
	2013	Strategy for Communities and Returns for 2014 to 2018		Yes		Yes	Yes	Ministry of Communities and Return (MCR)	No		
Kyrgyzstan	2010	Resolution on approval of the order of priority of providing housing to Kyrgyz citizens who were victims of the June 2010 events in Osh city, and Osh and Jalal-Abad districts						Ministry of Emergency Situations	No	Limited	Limited to 2010 events, lack of national capacity for implementation
Lebanon	1993	Law 190 concerning the displaced						Ministry of the Displaced	No	Problematic	Slow process of return, appears to have not been applied in 2006.
Liberia	2002	Declaration of the Rights and Protection of Liberian Internally Displaced Persons		Yes		Yes	Yes	<i>Liberia Refugee Repatriation and Resettlement Commission</i>	No	Limited	Does not reference Guiding Principles; slow pattern of returns
	2004	National Community Resettlement and Reintegration Strategy	Yes	Yes	Yes	Yes	Yes	<i>Results Focused Transitional Framework Working Committee</i>	Yes	Progressing	Generally well implemented with significant returns; some IDPs excluded from assistance.
	2004	Guiding Principles on Internally Displaced Persons: Instrument of Adoption			Yes						
Mexico	2012	Law for the prevention of and response to internal displacement in the state of Chiapas, Decree No. 158, 2012	Yes	Yes	Yes	Yes	Yes	<i>State Council for Integral Attention to Internal Displacement</i>	Yes	None	Law is strong on paper but has not been implemented
	2012	General Law on Victims						<i>The Executive Committee for Addressing Victims</i>	No	Limited	IDPs not clearly defined; face recognition denials.
	2014	Law for the prevention of and response to internal displacement in the state of Guerrero, Decree No. 487, 2014	Yes	Yes	Yes	Yes	Yes	Directorate General of Monitoring, Control and Evaluation of Human Rights Affairs	Yes	None	Law appears to not yet be implemented
Nepal	2004	Relief Program for Internally Displaced People Due to Conflict for FY 2004/05						<i>Central Legal Coordination and Directives Committee</i>	Yes	None	Policy has not received Cabinet approval and has not been implemented.
	2007	National Policy on Internally Displaced Persons	Yes	Yes	Yes	Yes	Yes	<i>Central Steering Committee, Chaired by Ministry of Home Affairs; Ministry of Peace and Reconstruction (MoPR)</i>	Yes		
Nigeria	2006 2012	National Policy on Internally Displaced Persons (IDPs) in Nigeria	Yes	Yes	Yes	Yes	Yes	<i>National Emergency Management Agency (NEMA); IDP Focal Coordinating Institution</i>	Yes	None	Policy stalled over identity of focal point institution.
Peru		Law No. 28223 Concerning Internal Displacements		Yes	Yes	Yes	Yes	various State entities and services	No	Limited	Law contains clear measures but slow process and limited access for IDPs.
Philippines	2013	An Act Protecting the Rights of Internally Displaced Persons	Yes	Yes	Yes	Yes	Yes	Commission on Human Rights	No	None	Draft bill vetoed; new versions not yet passed.
Russia	1993	Federal Law on Forced Migrants (1993, amended 1995 and 2003)		Yes		Yes	Yes	The migration service	No	Limited	Narrow definition, prioritizes returns, limited duration of status.

State	Year	Law/Policy	Refugee	IDP	GPs	IL	AID	Change in domestic institutions (Italics denote new bureaucracy created)	International Involvement	Effective Implementation	Key Issues
Serbia	2002	National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons				Yes	Yes	<i>Coordinating Centre for Kosovo and Metohija Task Force for Monitoring the Implementation of the National Strategy</i>	No	Progressing	Slow implementation and IDPs face procedural difficulties within the legal system.
	2006	Protocol on Voluntary and Sustainable Return			Yes	Yes					
Sierra Leone	2001	Resettlement Strategy	Yes		Yes		Yes	National Coordinating Committee on Relief, Rehabilitation and Reconciliation	Yes	Limited	Strong resettlement strategy coupled with the end of conflict and peace-keeping mission led to significant returns.
Somalia	2014	Policy framework on displacement within Somalia	Yes*	Yes			Yes	Ministry of the Interior and Federalism; <i>Agency on Internal Displacement and Refugee Affairs</i>	Yes	Limited	Bureaucratic support but policy remains in draft form and efforts limited by capacity problems.
South Sudan	2011	Transitional Constitution						Council of States	No	None	No further actions have been taken by the government.
Sri Lanka	2002	National Framework for Relief, Rehabilitation and Reconciliation			Yes		Yes	<i>National Coordinating Committee on Relief, Rehabilitation and Reconciliation</i>	Yes	Limited	While relatively strong, the framework's implementation was halted by the renewal of conflict.
	2007	Resettlement Authority Act of 2007		Yes				<i>Resettlement Authority</i>	No	Problematic	Requires implementation policy which was not introduced.
	2013	Framework for Resettlement Policy		Yes				Ministry of Resettlement	No	Problematic	Draft form only; provides limited definition of IDP status and focused on returns.
	2016	National Policy on Durable Solutions for Conflict-Affected Displacement		Yes	Yes	Yes	Yes	Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs	U-Yes	Progressing	Clear policy but implementation has only begun.
Sudan	2009	National Policy on Internal Displacement		Yes				All levels of government; Humanitarian Aid Commission; <i>High Committee</i>	Yes	Problematic	Access issues and lack of institutional capacity persist.
Tajikistan	1994	The Law of the Republic of Tajikistan on Forced Migrants		Yes		Yes	Yes	Central Department for Refugees of the Labour and Employment Ministry	No	Strong	Some implementation issues, but all IDPs now appear to have received durable solutions.
Timor-Leste	2007	'Hamutuk Hari'i Futuru' A National Recovery Strategy			Yes		Yes	Vice Prime-minister; Ministry of Social Services	No	Progressing	Initial implementation weak due to capacity constraints, however almost all IDPs returned by 2010.
Turkey	2005	Integrated Strategy Document	Yes		Yes			Ministry of Interior	No	Limited	Full implementation repeatedly delayed and limited financial commitments by government; focused on return only.
Uganda	2004	2004 The National Policy for Internally Displaced Persons	Yes	Yes	Yes	Yes	Yes	Office of the Prime Minister – Department of Disaster Preparedness and Refugees	Yes	Initially problematic, then limited	Strong policy, however implementation delayed.

State	Year	Law/Policy	CP IDP	IDP D	GPS	IL	AID	Change in domestic institutions (Italics denote new bureaucracy created)	International Involve	Effective Implementa- tion	Key Issues
Ukraine	2014	Resolution 509						Ministry of Social Policy and State Emergency Services	No	Problematic	Allowed for IDP registration, but confusing and limited IDP definition
	2015	Law of Ukraine on Ensuring Rights and Freedoms of Internally Displaced Persons		Yes		Yes	Yes	The Cabinet of Ministers of Ukraine	Yes	Limited	Improved IDP definition, but lacks IDP strategy
Yemen	2013	National Policy for Addressing Internal Displacement in the Republic of Yemen	Yes	Yes	Yes	Yes	Yes	The executive unit for IDPs	Yes	Limited	Strong policy but implementation affected by significant government capacity constraints
Zambia	2013	Guidelines for the compensation and re-settlement of internally displaced persons	Yes	Yes	Yes	Yes	Yes	The Department of Resettlement under the Office of the Vice-President	No	Strong	Policy clearly reflects Guiding Principles and provides for durable solutions and compensation.
Zimbabwe	2008	Global Political Agreement					Yes		Yes	Problematic	Initially strong commitments have seen no further action.
40		69	19	41	30	41	46		33		

Adapted from Phil Orchard, *Protecting the Internally Displaced: Rhetoric and Reality* (Routledge, Forthcoming).
Notes: * Definition used, but Guiding Principles not explicitly cited. RC Refugee Convention alone referred to.
Initial policies and legislation were gathered from Brookings Institute- University of Bern Project on Internal Displacement National and Regional Laws and Policies on Internal Displacement Index (http://www.brookings.edu/projects/idp/Laws-and-Policies/idp_policies_index.aspx) and the Brookings-Bern/ Institute for the Study of International Migration at Georgetown University Global Database on the Guiding Principles on Internal Displacement (<http://www.idpguidingprinciples.org>), unfortunately both sites have now closed. Newer materials were gathered from IDMC "IDP Laws and Policies: A Mapping Tool," <http://www.internal-displacement.org/law-and-policy>), UNHCR's Refworld <http://www.refworld.org>, and my own research. All laws and policies listed are available

END NOTES

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8. Figure Sources: UNHCR data: <http://www.unhcr.org/statistics/> (figures since 2007 include people in refugee-like situations and are not directly comparable); UNRWA data: Report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, A/35/13, 30 June 1980, and Annually 1982-2007. Reports available at the UN Information System on the Question of Palestine, available at: <http://www.unispal.un.org>. Data for 1981 is missing, and has been extrapolated from 1980 data based on annual growth rate of 2.2%. See BADIL Annual Growth Rate of Registered Palestinian Refugees (1953-2000), <http://www.badil.org/Statistics/population/Statistics.htm>. 2007 onwards from UNRWA Statistics website: <http://www.unrwa.org/etemplate.php?id=253>; IDP Data: United States Committee for Refugees, *World Refugee Survey* [Yearly 1997-2004], Washington D.C, US Committee for Refugees; Internal Displacement Monitoring Centre, *Internal Displacement: Global Overview of Trends and Developments*, [Yearly 2004-2018], Geneva, Norwegian Refugee Council, 2005-2017; Norwegian Refugee Survey, *Internally Displaced Persons: A Global Survey*, London, Earthscan Publications, 1999, 28. See also (Orchard 2014c: 204)
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