

IMPROVING THE IMPLEMENTATION OF NATIONAL INTERNALLY DISPLACED PERSONS LAWS AND POLICIES

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Executive Summary

The current Global Compact on Refugees discussions have provided only limited discussions with respect to internally displaced persons (IDPs), a critical omission given the likelihood that returning refugees, in particular, may become IDPs. Recognition that State legislation and policies can provide support is welcome. The Guiding Principles on Internal Displacement do provide a comprehensive set of durable solutions for IDPs and are therefore a useful framework in such circumstances. However, introduction of domestic legislation and policies is only the first step. While some forty States have introduced laws and policies, only one third have been fully implemented. Critical to this process is strong state capacity but also domestic and international accountability mechanisms.

1. Introduction

The Comprehensive Refugee Response Framework (CRRF) developed as part of the Global Compact on Refugees has identified four clear aims:

1. Ease pressure on countries that welcome and host refugees
2. Build self-reliance of refugees
3. Expand access to resettlement in third countries and other complementary pathways
4. Foster conditions that enable refugees voluntarily to return to their home countries.²

Within that fourth aim, UNHCR has identified the need for specific attention to rebuilding, within countries of origin, conditions conducive to voluntary and sustainable return, including by providing technical, financial and other support to countries of origin to help improve functioning of state institutions and the rule of law and to build institutional readiness, and to include returnees and reintegration in national development plans and in the UN Country Team frameworks.

However, this fourth aim has also been critiqued because, while it is focused on refugees, it ignores another, even larger, group of forced migrants: the internally displaced. The New York Declaration had recognized the “very large number of people who are displaced within national borders and the possibility that such persons might seek protection and assistance in other countries as refugees or migrants” and noted “the need for reflection on effective strategies to ensure adequate protection and assistance for internally displaced persons and to

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² UNHCR, “Comprehensive Refugee Response Framework,” <http://www.unhcr.org/en-au/comprehensive-refugee-response-framework-crrf.html>.

prevent and reduce such displacement.”³ The Declaration took no further steps to incorporate them.

And yet, the IDP-refugee relationship is a dynamic one in three senses. 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, but also 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, however, due to a lack of data we have no clear picture of how often either 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.”⁴ 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 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,”⁵ all dynamics likely to trigger internal displacement.

These problems have been acknowledged. Thanks in part to IDMC’s work, the fourth thematic discussion on solutions endorsed a recommendation that countries of origin for returning refugees needed to integrated the Guiding Principles on Internal Displacement into their national law and policy, and that members States, UN agencies, and their partners needed to expand the collection of data on the entire displacement continuum.

However, within the zero draft, this commitment has become only recognition that “Specific measures of support will often be required to avoid further displacement on return (internal or cross-border) and to ensure non-discrimination between returning refugees, the internally displaced, and non-displaced resident populations” and, included as a footnote reference, that “countries of origin could also consider incorporation of the ‘Guiding principles on internal displacement’ in national laws and policies.”⁶ While this is welcome, in this statement I argue

³ United Nations General Assembly, “New York Declaration for Refugees and Migrants,” A/RES/71/1, 3 Oct 2016, para.20

⁴ Internal Displacement Monitoring Centre, *Global Report on Internal Displacement, 2017*, <http://www.internal-displacement.org/assets/publications/2017/20170522-GRID.pdf>, 50.

⁵ Belquis Ahmadi and Sadaf Lakhani, “The Afghan Refugee Crisis in 2016,” *United States Institute for Peace Peacebrief 220*, Feb 2017, <https://www.usip.org/sites/default/files/2017-02/PB220-The-Afghan-Refugee-Crisis-in-2016.pdf>.

⁶ UNHCR, “The global compact on refugees ZERO DRAFT,” 31 Jan 2018, <http://www.unhcr.org/Zero-Draft.pdf>, para 68.

that it is inadequate on two grounds. The first is that the Guiding Principles on Internal Displacement, while soft law, provide a clear framework for the return, resettlement, and reintegration of IDPs, and note explicitly 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. The second is that while introducing domestic legislation and policies is an important step to protect IDPs – a step some 40 States have taken – introducing such policies is not enough. Instead, they need to both be clearly linked to the Guiding Principles and also need clear implementation support.

2. 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 not legally binding, these principles have created a factual definition of internally displaced persons (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.⁷

While non-binding, the Principles 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 IDPs⁸ while the 2005 World Summit Outcome Document recognized the principles as ‘an important international framework’ for IDP protection.⁹ The General Assembly, the Security Council, and the Commission on Human Rights/ Human Rights Council have all acknowledged or recognized the principles.¹⁰ Regional and sub-regional organizations have also recognized the guiding principles and have disseminated and made use of them.¹¹ 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.¹² In October 2009, the African Union Special Summit of Heads of State adopted the Convention for the Protection and Assistance of

⁷ Office for the Coordination of Humanitarian Affairs, "Guiding Principles on Internal Displacement," (New York: UNOCHA, 1999), 1.

⁸ United Nations, "In Larger Freedom: Towards Development, Security and Human Rights for All, Report of the Secretary-General," (New York: United Nations, 2005), para 210.

⁹ United Nations General Assembly, "Resolution 60/1: World Summit Outcome," (New York: United Nations, 2005), para 132.

¹⁰ Phil Orchard, "Protection of Internally Displaced Persons: Soft Law as a Norm-Generating Mechanism," *Review of International Studies* 36, no. 2 (2010): 294.

¹¹ Erin Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern," *Refugee Survey Quarterly* 24, no. 3 (2005): 166.

¹² International Conference on the Great Lakes Region, 'Protocol on Protection and Assistance to Internally Displaced Persons' (2006); see also Beyani Chaloka Beyani, "Recent Developments: The Elaboration of a Legal Framework for the Protection of Internally Displaced Persons in Africa'," *Journal of African Law* 50(2006): 187-97.

Internally Displaced Persons in Africa (the Kampala Convention) which came into force in 2012.¹³

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 Kälin 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.¹⁴

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 10-23 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 recognition as a person before the law; to not be arbitrarily deprived of property and possessions; to freedom of thought, employment, association, political participation, and communication, and to education.

The Guiding Principles also establish a set of responsibilities towards IDPs on the part of the State and other 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 reiterates this, noting 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.” The authorities are also expected to comply with a series of guarantees in such cases These include the free and informed consent of those to be displaced, that it shall be done by competent legal authorities following a specific decision by a State authority empowered to take such a decision, and finally that the displaced shall have a right to an effective remedy.

Principle 3 establishes that the primary duty to provide protection and humanitarian assistance lies with the national authorities. This reflects the “generally recognized principle

¹³ Allehone Mulugeta Abebe, "The African Union Convention on Internally Displaced Persons: Its Codification Background, Scope, and Enforcement Challenges," *Refugee Survey Quarterly* 29, no. 3 (2010): 42.

¹⁴ Walter Kälin, "The Guiding Principles on Internal Displacement as International Minimum Standard and Protection Tool," *Refugee Survey Quarterly* 24, no. 3 (2005): 29-30.

of sovereignty.”¹⁵ 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, is establishing that international humanitarian organizations can offer assistance to the State, and a right for international organizations to offer help: “Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.” Authorities are all expected to “grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced. In turn, however, international humanitarian organizations are also expected to “give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard.”

Principles 28 to 30 relate to return, resettlement, reintegration. 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 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 resettlement 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.”¹⁶

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 re-availment 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.¹⁷ 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

¹⁵ *Guiding Principles on Internal Displacement: Annotations* 2nd ed. (Washington D.C.: The American Society of International Law, 2008). 19.

¹⁶ “Guiding Principles on Internal Displacement: Annotations,” *Studies in Transnational Legal Policy* 32, no. 2 (2000): 37-39.

¹⁷ 1951 Refugee Convention Art 1 (C) 1-6. See also UNHCR, “Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees,” (Geneva: UNHCR, 2011), 23-4.

must be able to challenge the decision, and they can continue to claim status if they compelling reasons arising out of previous persecution, such as if they had been subject to atrocious forms of persecution. The burden of proof lies on UNHCR or the State of refuge, rather than the refugee.¹⁸ One study suggests that cessation clauses had only been invoked by UNHCR some 21 times between 1973 and 1999, and that they are little used by States.¹⁹

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. As Geissler notes, “resettlement would mean that previously internally displaced persons have permanently and voluntarily resettled in another part of the country and no longer face the persecution or other relevant danger which forced them to leave or flee...” while voluntary return would be the second option leading to cessation.²⁰ This also introduces a separate issue in terms of counting how many IDPs there are in a given year. 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.”²¹

In an effort to respond to this issue, in 2007 the Brookings-Bern Project on Internal Displacement introduced a framework for durable solutions which followed the Guiding Principles’ formulation of three forms of 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.”²² 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.²³ 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 last until IDPs are sure of their safety, of their rights and non-discrimination, and after they have received reintegration support.²⁴

3. 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...”²⁵ UNHCR notes that as part of its

¹⁸ Kate Jastram and Shelley Cavalieri, "Human Rights in Refugee Tribunals," *Refugee Survey Quarterly* 24, no. 2 (2005).

¹⁹ Joan Fitzpatrick and Rafael Bonoan, "Cessation of Refugee Protection," in *Refugee Protection in International Law*, ed. Erika Feller, Volker Turk, and Frances Nicholson (Cambridge: Cambridge University Press, 2003), 501, 12.

²⁰ Nils Geissler, "The International Protection of Internally Displaced Persons," *International Journal of Refugee Law* 11, no. 3 (1999): 456.

²¹ Vickie Frater and Phil Orchard, "More Heat Than Light: The Challenges of Measuring Forced Migration," *Global Responsibility to Protect* 9, no. 1 (2017): 50.

²² Brookings Institution-University of Bern Project on Internal Displacement, "When Displacement Ends: A Framework for Durable Solutions," Jun 2007, 10.

²³ *Ibid.*, 10-11.

²⁴ *Ibid.*, 12-17.

²⁵ UNGA Resolution "Protection of and assistance to internally displaced persons," A/RES/62/153, 6 Mar 2008, 4.

specific commitment to IDPs it supports “States’ efforts to adopt, update, or prepare national policies on IDPs.”²⁶

However, while some forty States have now passed such laws and policies, there have been significant issues with both their form and how they are implemented. The 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.

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. Most policies or laws also clearly indicate which government bureaucracies are responsible for IDP protection, and in many cases new bureaucracies have been established to fulfill this role. By contrast, only 30 explicitly mention the guiding principles, and only 19 explicitly endorse its IDP definition. In fact, most of these law and policies either do not provide a definition or introduce a more restrictive definition than that of the principles.²⁷

Beyond their content, there is the question of whether or not these policies and laws are actually implemented, reflected in the final column of the table. Here, too, the record is problematic, with many laws and policies not receiving full implementation. 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

²⁶ UNHCR, "Global Report 2013," (Geneva: UNHCR, 2014), 72.

²⁷ See also Susan Carr, "From Theory to Practice: National and Regional Application of the Guiding Principles," *International Journal of Refugee Law* 21, no. 1 (2009): 39.

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.

Limited or problematic 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 eleven 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.

There are three explanations as to why implementation may stall out.²⁸ 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.”²⁹ This can also happen due to domestic opposition within and outside of the government.

Alternatively, the IDP policy may reflect the government having decided to make a strategic rhetorical commitment to the norms embodied within the guiding principles with no plan to follow through on implementation. 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 concerns*³⁰ 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.³¹

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

²⁸ This section develops arguments I first made in Phil Orchard, "Implementing a Global Internally Displaced Persons Protection Regime," in *Implementation and World Politics: How International Norms Change Practice*, ed. Alexander Betts and Phil Orchard (Oxford: Oxford University Press, 2014).

²⁹ Elizabeth Ferris, Erin Mooney, and Chareen Stark, "From Responsibility to Response: Assessing National Approaches to Internal Displacement," (Washington D.C.: Brookings Institution- LSE Project on Internal Displacement, 2011), 25.

³⁰ Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (1998): 903.

³¹ Susan D. Hyde, "Catch Us If You Can: Election Monitoring and International Norm Diffusion," *American Journal of Political Science* 55, no. 2 (2011): 359.

of issues.³² 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.³³ This institutional involvement may cause governments to create policies or laws where they otherwise may not have taken action; absent further pressure, 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.³⁴

4. What Factors Lead to Successful Implementation?

While the overall implementation picture is mixed, a number of States have successfully implemented their own IDP legislation and policies. Across these cases, three factors are clear. First, successful implementation is linked to strong state capacity. In Azerbaijan, an initial weak response shifted as the government improved its legislative framework and committed significant resources to its response from its State oil fund. But such efforts do not need significant domestic resources. Liberia was able to build up its capacity in close cooperation with international aid agencies and support an effective return effort. Sierra Leone similarly led an effective return strategy with the assistance of peacekeepers in the country. In Timor Leste, the government’s own capacity was quite weak, but the government was able to contribute some funds to a return and recovery program which was successful.

Second accountability to other domestic institutions, most notably the courts, is also a critical factor. Colombia not only has created a strong legal framework, but similarly spends large amounts annually to support its IDP population. But this is in part because the Colombian Constitutional Court can hold the government to account for ineffective implementation. The Georgian Constitutional Court similarly has pushed the government to bring its laws in line with the Guiding Principles.

Third, accountability to the domestic population can also drive the implementation process. In both Georgia and Sri Lanka, implementation efforts significantly improved after changes in government, one through revolution, the other through election. Accountability at the international level can also be a significant factor. In the case of Croatia, pressure from international actors including the EU led to the end of discriminatory practices towards Serbian IDPs.

³² David Williams, "Aid and Sovereignty: Quasi-States and the International Financial Institutions," *Review of International Studies* 26, no. 04 (2000); Lindsay Whitfield and Alastair Fraser, "Introduction: Aid and Sovereignty," in *The Politics of Aid: African Strategies for Dealing with Donors*, ed. Lindsay Whitfield (Oxford: Oxford University Press 2009).

³³ UNHCR, "Handbook for the Protection of Internally Displaced Persons," (Geneva: UNHCR, 2007), 110.

³⁴ Frank Schimmelfennig, "The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union," *International Organization* 55, no. 1 (2001): 64; Ronald R. Krebs and Patrick Thaddeus Jackson, "Twisting Tongues and Twisting Arms: The Power of Political Rhetoric," *European Journal of International Relations* 13, no. 1 (2007).

Appendix: Domestic IDP Policies or Legislation

State	Year	Law/Policy	GP DEF	IDP Rights			AID	Change in domestic institutions (Italics denote new bureaucracy created)	International Involvement in Drafting	Effective Implementation	Key Issues
				D	GPs	IL					
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 Subgroups 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		
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-RC		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.
Bosnia Herzegovina	1995	General Framework Agreement for Bosnia and Herzegovina, Annex VII				Yes	Yes	<i>Refugees and Displaced Persons Property Fund</i>	Yes	Progressing	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 Progressing	Discriminatory policies towards minority IDPs. Improved standards since 2000 and most IDPs have returned.
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	Ministry of Refugees and Accommodation of Georgia	No	Limited	IDP definition remained limited.
	2007	Law on Property Restitution and		Yes		Yes	Yes	Commission on Restitution and	No	Limited	Focus on return

		Compensation for the Victims of Conflict						Compensation			
	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							No		
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		
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	National Emergency Management Agency (NEMA); <i>IDP Focal Coordinating Institution</i>	Yes	None	Policy stalled over identity of focal point institution.
Peru	2004	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.
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	Resettlement Steering Committee, chaired by National	Yes	Strong	Strong resettlement strategy coupled with the end of conflict

								Commission for Reconstruction, Resettlement and Rehabilitation			and peacekeeping 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	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	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.
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 resettlement 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