



DEPARTMENT OF LAW

Course of International Organizations

**THE REGIME OF PROTECTION OF
INTERNALLY DISPLACED PERSONS:
RULES, KEY ACTORS, AND ISSUES OF
RESPONSIBILITY**

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INTRODUCTION

Addressing the protection of internally displaced persons (IDPs) has become an urgent necessity in contemporary international law. Displacement, whether provoked by armed conflict, generalized violence, systematic human rights violations, or natural disasters, constitutes not only a humanitarian emergency but also a profound challenge to the stability of the international legal order. Unlike refugees, IDPs remain within the borders of their own state, often under the authority of institutions that have failed to protect them or have directly contributed to their displacement. This reality exposes the tension between state sovereignty and the duty of human protection, while at the same time revealing the structural weaknesses of domestic systems in safeguarding populations. The situation of IDPs therefore highlights the need for coherent and effective legal frameworks capable of ensuring not only survival, but also dignity, equality, and access to durable solutions.

While the international community has long recognized the rights of refugees under the 1951 Refugee Convention, the situation of those displaced within their own borders remained for decades in a legal grey zone. It was only with the adoption of the Guiding Principles on Internal Displacement of 1998, that a comprehensive framework emerged, consolidating existing human rights and humanitarian law into a coherent set of standards. However, their normative effectiveness at the international level has consistently been questioned, as the Principles are not legally binding, and instead draw their authority from soft-law and subsequent practice. As with many areas of international protection, their effectiveness ultimately depends on the willingness of states and non-state actors to implement them in practice.

Displacement is not a neutral phenomenon: it is often the result of deliberate policies of persecution, ethnic cleansing, or collective punishment. In such contexts, the absence of binding obligations has too often left IDPs vulnerable to cycles of violence, marginalization, and neglect. Despite the development of regional

instruments such as the Kampala Convention (2009) in Africa, and the growing recognition of IDP rights in jurisprudence and state practice, persistent gaps remain in prevention, protection, and durable solutions.

The comprehensive approach to safeguarding IDPs must therefore combine prevention of arbitrary displacement, protection during displacement, and the facilitation of voluntary return, local integration, or resettlement. This requires not only legal recognition but also effective enforcement, political commitment, and the active involvement of international and regional actors. Only through such coordinated efforts can the rights of IDPs be fully realized, and the cycle of displacement broken.

This thesis will then examine the evolution and application of the international legal framework for the protection of IDPs, with particular attention to the Guiding Principles on Internal Displacement and their interaction with human rights and humanitarian law. It will also analyze the role of key actors in implementing these norms and assess their effectiveness through a case study of Georgia, a country where displacement has been both protracted and politically sensitive.

The work is organized into four chapters: the first chapter defines the concept of internally displaced persons and traces the development of the legal definition governing their protection. The second chapter analyzes the Guiding Principles in detail, focusing on their substantive provisions and normative foundations. The third chapter examines the role of international, regional, and domestic actors in ensuring protection and assistance to IDPs. The fourth chapter presents a case study on Georgia, evaluating how international standards have been applied in practice and identifying the challenges that remain.

CHAPTER 1

DEFINING INTERNALLY DISPLACED PERSONS (IDPs)

1. The growing significance of the phenomenon of displacement at the international level — 2. Finding a definition for IDPs — 2.1. The refugee definition as guidance — 2.2. IDPs and refugees: similarities and differences — 2.3. Internal Displacement as a Political and Normative Category — 2.3.1. Climate-Induced Internal Displacement

1. The growing significance of the phenomenon of displacement at the international level

For much of the twentieth century, forced migration was understood and governed mainly as a cross-border issue. International law and policy focused primarily on refugees, individuals who, by being outside their country of nationality or habitual residence, became the central concern of global legal and institutional mechanisms. In comparison those who fled emergency situations but remained within their own states received little attention. Their protection was addressed, if at all, by general human rights guarantees or *ad hoc* humanitarian interventions, often dependent on the political will of the state or the international community. This approach became unsustainable in the post-Cold War era as internal armed conflicts multiplied, authoritarian regimes turned violence against their own populations and natural disasters became more frequent and more destructive. As a result, state institutions began collapsing under the weight of political and environmental instability. In the last part of the twentieth century a new trend emerged: in most emergencies, internally displaced persons outnumbered refugees two to one¹, revealing a structural protection gap that a refugee-centric framework could not fill².

¹ UNHCR, *The State of the World's Refugees: In Search of Solutions* (Oxford University Press, 1995), 33.

² United Nations High Commissioner for Refugees (UNHCR), *The State of the World's Refugees: A Humanitarian Agenda* (Oxford University Press, 1997), 42.

The growing international attention to displacement in the last part of the century cannot be separated from its historical and geopolitical context. The end of the Cold War marked a shift from a “bipolar” global order characterized by the rivalry between the United States and the Soviet Union, moving towards a more fragmented and unpredictable landscape³. With the collapse of the Soviet Union, many of its former allied states faced sudden political unrest, economic instability, and violent transitions often resulting in internal conflict and mass displacement. At the same time global politics moved toward promoting liberal democracy, free-market reforms, and humanitarian action. In regions such as the Balkans, the Great Lakes, and the Caucasus, ethnic tensions and state collapse caused large scale internal displacement, often in states that were already fragile to begin with⁴. As displacement increasingly occurred within state borders, the international community felt both a moral obligation and a strategic need to respond, especially as internal crises risked destabilizing entire regions, causing people to flee across borders, and put pressure on the emerging liberal international order. In 1991, UN Secretary General Javier Pérez de Cuéllar noted that there was “*an irresistible shift in public attitudes*” towards the belief that defending the oppressed, as a moral duty, should transcend political agendas and formal legal instruments⁵. The increase of internal conflicts during and after the Cold War displaced millions of people within their own countries. Yet, the international protection regime established in the 1950s, comprising the Office of the United Nations High Commissioner for Refugees (UNHCR) and the 1951 Refugee Convention, applied only to those who had crossed an international boundary to escape persecution.

By the early 1990s, the limits of this framework in responding to humanitarian crises had become evident. Acknowledging this gap, UNHCR High Commissioner Sadako Ogata expanded the organization’s “operational coverage” to include IDPs

³ Vincent Chetail and Céline Bauloz, eds., *Research Handbook on International Law and Migration* (Cheltenham: Edward Elgar, 2014).

⁴ Susan L. Woodward, *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Brookings Institution Press, 1995).

⁵ Javier Pérez de Cuéllar, quoted in Roberta Cohen and Francis M. Deng, *Masses in Flight: The Global Crisis of Internal Displacement* (Brookings Institution Press, 1998), 3.

and other affected populations, particularly in situations of internal armed conflict where they mixed with refugees⁶. These actions won the support of both the UN General Assembly and Security Council, which increasingly authorized relief corridors, cross-border assistance, and, in some cases, the use of force to ensure protection and aid delivery, as seen in Northern Iraq, Somalia, and Bosnia⁷.

As mentioned above, by the late twentieth century, a combination of factors brought internal displacement from the margins to the center of the international agenda. First of all, visibility: as conflicts in the Balkans, the Great Lakes region, and the Horn of Africa were closely followed by the media and diplomats. Warfare and campaigns of ethnic cleansing forced civilians to flee within national frontiers, often into areas that humanitarian actors could not easily reach. The international community could no longer ignore vast displaced populations simply because they had not crossed an international border. Secondly, a new view of sovereignty emerged, from a shield against external scrutiny to a set of responsibilities owed to populations within a state's territory. The new doctrine of "sovereignty as responsibility" opened normative space for the international community to get involved in situations of internal displacement⁸. Third, the international peace and security agenda expanded. Beginning in the early 1990s, the UN Security Council began framing denial of humanitarian access, attacks on civilians, and obstruction of aid as threats to peace and security. In exceptional cases, it even authorized the use of coercive measures to secure relief delivery or and civilian protection, signaling that internal displacement could be linked to global stability⁹. Fourth, reforms in the humanitarian system introduced clearer leadership and more accountability. The so-called "cluster approach" put specific agencies in charge of

⁶ Sadako Ogata, *Statement to the 52nd Session of the United Nations Commission on Human Rights*, Geneva, 20 March 1996.

⁷ Thomas G. Weiss and David A. Korn, *Internal Displacement: Conceptualization and Its Consequences* (Routledge, 2006), 89, noting that "*the Security Council's willingness to authorize cross-border relief operations marked a significant departure from traditional interpretations of sovereignty.*"

⁸ Francis M. Deng and Roberta Cohen, "Sovereignty as Responsibility: Building Block for R2P," in *The Oxford Handbook of the Responsibility to Protect*, (Oxford University Press, 2016).

⁹ United Nations Security Council, *Resolution 794*, S/RES/794 (December 3, 1992). In response to the Somali civil war, which had displaced millions and obstructed humanitarian relief, the UNSC determined the crisis to be a threat to international peace and security and authorized Member States to use "all necessary means" to establish a secure environment for aid delivery.

key sectors such as protection, shelter, and camp coordination and camp management, while also recognizing that IDP responses required coordination between agencies and state authorities.¹⁰ Lastly, better data made more IDPs visible. New monitoring mechanisms began to collect more reliable information on internal displacement, disaggregated by cause, location, and specific needs of those affected.¹¹

In the absence of a global treaty on internal displacement, a combination of soft-law instruments and regional treaties has progressively narrowed the protection gap. Most notably, the 1998 *Guiding Principles on Internal Displacement*¹² organized existing human rights and humanitarian law into a clear definition of who qualifies as an IDP, alongside a set of standards covering the entire displacement cycle: prevention, protection during displacement, and durable solutions for reintegration. Regional organizations, most notably the African Union, managed to translate soft-law instruments into binding obligations, requiring states to prevent arbitrary displacement, safeguard and assist IDPs, and support solutions in contexts of conflict, disaster, and development¹³. Furthermore, many domestic courts, drawing on these frameworks, began to recognize and enforce specific duties toward IDPs, with Colombia's Constitutional Court offering an extremely clear example of transformative jurisprudence.¹⁴

Changes in operational practice mirror these normative advances. Humanitarian actors increasingly focus on responses that do not consider camps as the default setting, reflecting the reality that many IDPs live dispersed in urban and semi-urban areas. Protection strategies now incorporate documentation restoration; restitution

¹⁰ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Guidance Note on Using the Cluster Approach to Strengthen Humanitarian Response* (OCHA, 2006).

¹¹ Internal Displacement Monitoring Centre (IDMC), *Global Report on Internal Displacement 2025* (IDMC, 2025).

¹² United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2 (Feb. 11, 1998).

¹³ African Union, *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)*, adopted Oct. 23, 2009, entered into force Dec. 6, 2012.

¹⁴ Constitutional Court of Colombia, Decision T-025/04 (Jan. 22, 2004). The Court declared an “unconstitutional state of affairs” regarding IDPs, ordering structural changes to guarantee their rights, and explicitly referencing the Guiding Principles on Internal Displacement.

or compensation for lost housing, land, and property; and specific measures for groups at heightened risk, including women and girls, children, older persons, persons with disabilities, and minority or indigenous communities¹⁵. On the ground, municipal authorities often bear the primary responsibility for organizing and delivering essential services, often acting more swiftly and effectively than national institutions¹⁶.

Despite continuous international efforts, structural challenges to protecting IDPs persist. As a matter of fact, access to humanitarian aid continues to rely on political will, meaning that where state authorities or non-state armed groups are involved in displacement, consent for relief operations can be narrowed, withdrawn, or instrumentalized. In Gaza, for example, UN agencies, the International Committee of the Red Cross, and several NGOs have reported that Israel, as the occupying power, has repeatedly completely blocked humanitarian aid, even as military operations have displaced the vast majority of the population in the area.¹⁷

Systems for ensuring accountability in cases of displacement remain weak, as national courts may lack independence or resources to act effectively; important documents are often lost or destroyed; and restitution laws are often insufficient or discriminatory. Achieving long term solutions requires protracted investment in public services, livelihood opportunities, and local governance, needs that sadly extend beyond the scope of traditional humanitarian mandates. Yet, despite many challenges, the protection of IDPs has advanced. There is now a widely accepted definition, an authoritative set of principles, and a set of institutional practices that have improved access, coordination, and protection. Moreover, regional treaty-making has shown that binding standards are politically achievable, while domestic jurisprudence has demonstrated that courts can drive policy reform and

¹⁵ UNHCR, *Handbook for the Protection of Internally Displaced Persons* (UNHCR, 2010), Part VI.

¹⁶ United Nations Development Programme (UNDP), *Humanitarian-Development-Peace Nexus Approaches in Conflict and Disaster Settings* (UNDP, 2023).

¹⁷ *see* International Committee of the Red Cross, *After Two Months of Aid Blockage, Humanitarian Response in Gaza on Verge of Total Collapse* (ICRC, 2025); Refugees International, *Siege and Starvation: How Israel Obstructs Aid to Gaza* (Refugees International, 2025); UN News, “Aid Insufficient to Avert Widespread Starvation as Israeli Restrictions Persist,” *UN News*, August 15, 2025.

unlock resources. Still, without translating international standards into domestic legal and administrative systems, there is a serious risk of backsliding as protections can be eliminated by political change, budget cuts, or shifting priorities. In many cases, the absence of national frameworks leaves IDP protection dependent on individual officials or the presence of international agencies, both of which can change suddenly¹⁸.

At the same time, there is a rare opportunity to make real progress as recent regional treaties, such as the African Kampala Convention of 2009¹⁹, and high-profile crises have pushed internal displacement higher on political agendas²⁰. Governments are increasingly aware of the reputational damage and risks to stability that come from neglecting IDPs, while donors are more willing to support long-term solutions. This opportunity will not last forever, making it essential to act swiftly.²¹

Against this backdrop, the challenge is to turn political will and normative progress into lasting changes. The priority is to consolidate and strengthen what has already been achieved, and to secure the funding needed to make it effective in practice. This requires integrating existing international standards into national laws and administrative systems, and equipping local authorities with the skills, staff, and resources to implement them²². In this changing context, a core question emerges: who exactly qualifies as an internally displaced person? The answer has real consequences as the definition determines who is entitled to protection and assistance, shapes policies and influences how aid is delivered. Understanding the legal definition, the political conflicts surrounding it, and the real-life consequence

¹⁸ United Nations High Commissioner for Refugees, *Handbook for the Protection of Internally Displaced Persons* (Geneva: UNHCR, 2010).

¹⁹ African Union, *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)*, 2009.

²⁰ Refugees International, *Internal Displacement: An Agenda for Progress* (Refugees International, 2021).

²¹ Nadine Knapp and Anne Koch, *The Legacy of the UN Special Adviser on Solutions to Internal Displacement: How to Maintain Political Momentum after the Mandate Expires* (SWP, 2024), 2–3.

²² United Nations, *Guidance on Solutions to Internal Displacement* (UN Sustainable Development Group and Inter-Agency Standing Committee, 2025).

of classification is essential for developing responses to internal displacement that are both fair and effective²³.

2. Finding a definition for IDPs

A definition does more than classify: it determines who qualifies for protection and assistance, it delineates the responsibilities of states and international actors, structures operational coordination, and provides a basis for judicial and administrative remedies²⁴. For IDPs, definitional clarity is critical because they remain under the jurisdiction of their own state, even when it is unable or unwilling to ensure their safety. Oftentimes the state itself is responsible for their displacement, this creates a unique protection gap: IDPs cannot claim the legal status of refugees, yet they may face equal danger. The line between internal displacement and other forms of internal migration must be established carefully: it should be broad enough to capture the experiences of coercion, while at the same time, being narrow enough to avoid diluting the concept of displacement into general migration²⁵.

Any analysis of the core elements of the definition of an internally displaced person must start with the concept of coercion, the main factor that distinguishes displacement from voluntary mobility. Displacement occurs when people are forced or obliged to leave their homes or places of habitual residence because remaining would expose them to serious threats to life, physical integrity, liberty, or essential means of subsistence.²⁶ Four broad categories illustrate the wide range of circumstances that might force people to flee: armed conflict and generalized

²³ Office of the High Commissioner for Human Rights, *About Internally Displaced Persons*, Special Rapporteur on the Human Rights of Internally Displaced Persons.

²⁴ Walter Kälin, *Guiding Principles on Internal Displacement: Annotations*, rev. ed. (Washington, DC: The Brookings Institution, 2008).

²⁵ 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).

²⁶ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2 (1998), Introduction, para. 2.

violence; gross human rights violations; disasters linked to natural hazards and development projects without adequate safeguards.²⁷

Among the drivers of internal displacement, armed conflict and generalized violence remain the most significant²⁸. Contemporary conflicts are often marked by shifting frontlines that pass through populated areas uprooting civilians. It's important to note that effects vary depending on the setting: in more rural areas, scorched-earth tactics²⁹ destroy homes, crops, and water sources. While in urban areas, techniques such as siege warfare and indiscriminate bombardment make it impossible for people to stay. Moreover, displacement is caused not only by regular armed forces but also by militias, insurgent groups, and organized criminal actors, whose tactics may deliberately target civilians to secure control over territory and resources³⁰. The intersection of conflict-related challenges, in areas already weakened by economic instability or natural disasters, then produces crises that are extremely complex.

Displacement also happens when people face gross human rights violations, which can occur even outside of armed conflicts. States and *de facto* authorities may use surveillance, harassment, intimidation, and threats to silence opposition. These forms of repression can then escalate into detention, torture, or sexual violence, leaving affected communities with no choice but to flee. Other common tactics such as forced conscription and the recruitment of children into armed groups push many families to relocate before harm reaches them, while collective punishment measures, such as curfews, cutting off essential services, or home demolitions, can depopulate entire communities. These actions often breach international human rights law and, in some cases, amount to crimes against humanity or war crimes,

²⁷ Kälén, *Guiding Principles on Internal Displacement: Annotations*, 25–27. Principle 6.

²⁸ Internal Displacement Monitoring Centre (IDMC), *Global Report on Internal Displacement 2024* (IDMC, 2024).

²⁹ A prohibited military strategy of destroying anything that might be useful to the survival of the enemy, including crops, livestock, buildings, and infrastructure. See Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125 U.N.T.S. 3, art. 54(2).

³⁰ International Committee of the Red Cross (ICRC), *Urban Services During Protracted Armed Conflict: A Call for a Better Approach to Assisting Affected People* (ICRC, 2021).

meaning those responsible, whether states or armed groups, should be held legally accountable³¹.

In addition, disasters linked to natural hazards are a leading cause of new internal displacements each year. Sudden events such as earthquakes, floods, cyclones, or wildfires can destroy housing, infrastructure, and livelihoods within hours, triggering mass evacuations. By contrast, slow-onset events such as drought, desertification, glacial retreat, and sea-level rise gradually compromise populated areas, causing relocation when adaptation measures are no longer enough. These disasters often lead to overcrowded shelters, poor access to healthcare, and greater risk of disease, malnutrition, and gender-based violence. Climate change magnifies these risks, as extreme weather events increase in frequency and severity³².

Finally, development projects without adequate safeguards can also cause large-scale displacement. Major infrastructure projects, such as hydroelectric dams, mining operations, urban renewal programmes, transport corridors, and some conservation initiatives, have all displaced communities³³. In these cases, primary displacement occurs when land is acquired for a project, while secondary displacement can result from environmental damage, pollution, or loss of access to resources. The socio-economic impact is severe as even when compensation for eviction is offered, it is often delayed and insufficient. Unlike refugees, or those who flee conflict, people displaced by developmental projects are not protected by an international framework, leaving them reliant on national legislations that are often applied inconsistently. To address the protection gap, the UN Special Rapporteur on adequate housing, under the OHCHR, set out some guidelines or “best-practices”. The *Basic Principles and Guidelines on Development-Based Evictions and Displacement* requires informed consent from affected communities, who must be consulted and given full information on development projects.

³¹ Rome Statute of the International Criminal Court, 17 July 1998, 2187 U.N.T.S. 3, artt. 7-8.

³² Internal Displacement Monitoring Centre (IDMC), *Global Report on Internal Displacement 2024* (IDMC, 2024).

³³ UN Office of the High Commissioner for Human Rights (OHCHR), *Basic Principles and Guidelines on Development-Based Evictions and Displacement*, Annex 1 to the Report of the Special Rapporteur on Adequate Housing, A/HRC/4/18 (OHCHR, 2007), paras. 6–10

Furthermore, fair, and swift compensation must be issued, as well as measures for livelihood restitution, so that those displaced can maintain their standards of living after relocation³⁴.

Taken together, these four drivers show that internal displacement is rarely caused by a single event. Instead, it usually results from the combined effects of political, environmental, and economic forces, highlighting the need for protection frameworks and coordinated responses that address the entire spectrum of displacement drivers.

Displacement is a global reality that uproots millions each year. According to the *Global Report on Internal Displacement (2025)*, at the end of 2024 an estimated 123.2 million people worldwide were living in forced displacement due to persecution, conflict, violence, or human rights violations, nearly double the amount from the previous decade³⁵. The report highlighted an increase of 7 million people, or 6 percent, compared with the end of 2023. However, while the total number of people living in displacement has increased sharply over the past decade, growth slowed in the second half of 2024. By April 2025, UNHCR reported 1 percent drop, to 122.1 million, marking the first decline in more over ten years³⁶. The durability of this shift in the coming years will depend on multiple factors, such as the cessation of hostilities in the Democratic Republic of the Congo, Sudan, Ukraine, and Palestine; stability in South Sudan; and improved return conditions in Afghanistan and Syria. Within the displaced population, which includes IDPs, refugees, asylum seekers and stateless persons, the *Internal Displacement Monitoring Centre (IDMC)* reports that the number of people displaced within their own countries has reached a record number of 83.4 million at the end of 2024, a figure that could rise further in the coming years without appropriate responses³⁷.

³⁴ UN Office of the High Commissioner for Human Rights (OHCHR), *Basic Principles and Guidelines on Development-Based Evictions and Displacement*, Annex 1 to the Report of the Special Rapporteur on Adequate Housing, A/HRC/4/18 (OHCHR, 2007).

³⁵ UNHCR, *Global Trends: Forced Displacement in 2024* (UNHCR, 2025).

³⁶ Ibid.

³⁷ Internal Displacement Monitoring Centre (IDMC), *Global Report on Internal Displacement 2025* (IDMC, 2025).

As a matter of fact, humanitarian agencies warn that without adequate funding, essential relief measures such as food assistance and basic shelter could collapse, leaving millions even more vulnerable.

Against this global backdrop, the conflicts in Ukraine and Palestine serve as reminders that even the most visible crises can displace populations faster than humanitarian actors can respond, despite sustained media coverage and constant public attention. As it stands, the war in Ukraine remains one of the largest displacement crises in Europe since the Second World War. As of April 2025, there were an estimated 3.76 million people displaced within the country³⁸. The intensification of fighting in the region of Donetsk has prevented many from returning and has driven more people to flee, particularly from areas near the front lines. Many have been displaced multiple times, and returning home is still unsafe due to ongoing violence, destroyed buildings, and presence of unexploded bombs. Similarly, in Palestine, displacement has reached unprecedented levels. By the end of 2024, over 3.2 million reported Palestinians were living in internal displacement, the vast majority being in the Gaza Strip³⁹. It has been estimated that, by the end of 2024, 92 percent of housing in Gaza was either damaged or destroyed⁴⁰. Furthermore, large scale military operations, including in the designated “safe havens” of Rafah and Jabalia, further exacerbated the crisis: humanitarian access was denied, famine emerged, and conditions in overcrowded camps worsened⁴¹. The displacement crises in Ukraine and Palestine highlight not only human consequences of protracted conflict, but also the urgent need for a coherent and unified response from the international community.

³⁸ International Organization for Migration (IOM). *Ukraine Internal Displacement Report: General Population Survey, round 20, April 2025*. Kyiv: IOM, 2025; Internal Displacement Monitoring Centre (IDMC). “Ukraine.” Last updated May 14, 2025, for updated date see <https://www.internal-displacement.org/countries/ukraine/>.

³⁹ United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). *Situation Report #64 on the Situation in the Gaza Strip and the West Bank, Including East Jerusalem*. January 15, 2024.

⁴⁰ Internal Displacement Monitoring Centre (IDMC). “Palestine – Conflict in Gaza Leaves 83 Per Cent of the Population Internally Displaced in Less than Three Months.” May 14, 2024; United Nations Office for the Coordination of Humanitarian Affairs (OCHA). *Gaza Strip: Internal Displacement from Rafah Governorate*. June 9, 2024.

⁴¹ World Food Programme (WFP). “WFP Chief Visits Palestine and Israel, Calls for Immediate Surge of Aid into Gaza and Safe Access to Reach the Most Vulnerable Families.” August 28, 2025

Given these common challenges, the UN Guiding Principles on Internal Displacement serve as an important standard, offering a global framework to ensure protection and responsibility. Principle 2 of the Guiding Principles on Internal Displacement, presented to the Commission on Human Rights in 1998, establishes a general definition for 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.”⁴²

Two elements are key when it comes to the definition of IDPs: movement must be involuntary, not simply motivated by economic reasons or personal choice, and secondly the person must remain within their own country's borders. Establishing a clear definition for internal displacement serves three main purposes: firstly, it distinguishes them from refugees (identified by a cross-border movement), ensuring that IDPs are treated under the correct legal framework. Secondly, it provides a shared vocabulary for governments, humanitarian organizations, and courts to identify IDPs and coordinate responses. Lastly, a common definition establishes criteria for when displacement officially ends, so that people are not left in a state of uncertainty.

Getting to a clear and generally recognized definition was not an easy process. Initial debates focused on whether existing refugee law could be interpreted to include internal displacement, or whether a new global treaty was needed. However, it quickly became clear that concerns over state sovereignty and resistance to international supervision over internal matters meant that a binding global instrument was unlikely. In response, the international community chose to adapt

⁴² United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2 (1998).

and re-interpret existing norms for the specific context of internal displacement. This approach led to the adoption of the *Guiding Principles on Internal Displacement* in 1998, a non-binding legal instrument drawing from established human rights and humanitarian law⁴³. Over time, the principles gained legitimacy through repeated and consistent use, as government, national courts and international actors began using them in legislation, case resolution and policy making. At the same time, academic research played a key role in strengthening both the legal basis and practical relevance of the principles. Commentaries, annotations, handbooks, and explanatory notes, such as the UNHCR Handbook for the Protection of IDPS, or Walter Kälin's Annotations on the Guiding Principles, all underscored that the principles did not create new obligations, but instead reaffirmed existing provisions under international human rights law and international humanitarian law, covering all phases of displacement: before, during and after relocation⁴⁴. The principles also highlighted so-called "grey areas" in the existing protection frameworks, where further policy development is still necessary. These include protection from arbitrary displacement caused by climate change, as well as ensuring the right to seek humanitarian aid, and setting standards for safe return or local integration.

As mentioned, a descriptive definition of internal displacement offers many advantages. Most notably, this approach avoids the rigidity of a fixed list of clauses, which risk becoming outdated as new drivers of displacement, including those linked to gradual climate change, emerge⁴⁵. This approach also clarifies that "internally displaced person" does not refer to a legal status grounded in international treaties, but rather to a descriptive category defined by the overlapping of three core elements: coercion, internality, and unmet protection needs⁴⁶.

⁴³ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2 (1998)

⁴⁴ Kälin, Walter. *Guiding Principles on Internal Displacement: Annotations*. American Society of International Law, 2008; UNHCR. *Handbook for the Protection of Internally Displaced Persons*. (UNHCR, 2010).

⁴⁵ Walter Kälin, *Guiding Principles on Internal Displacement: Annotations* (American Society of International Law, 2008), 4–5.

⁴⁶ Erin Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category," *Refugee Survey Quarterly* 24, no. 3 (2005).

At the same time, the absence of a binding global convention means that the effective implementation of the *Guiding Principles on Internal Displacement* depends heavily on political will, the strength of domestic legal frameworks, and the institutional capacity of national authorities. This gap has been partially addressed through regional instruments, such as the African Union's Kampala Convention, and the evolution of national jurisprudence in several countries⁴⁷.

Before turning to the comparison of internal displacement with refugee status, a crucial clarification is needed: internal displacement must not be confused with poverty-driven mobility or voluntary internal migration. The IDP category is defined by coercion, not from economic disadvantage or voluntary relocation. Preserving this distinction is fundamental not only to guard against overly broad interpretations that can dilute protection, but also to prevent the under-recognition of those whose needs remain unmet. Ultimately, internal displacement refers to forced movement within a state's borders, persisting until a durable solution, whether return, integration, or resettlement is achieved.

Section 2.1 then, examines the refugee definition as a guide for developing a protection category. While it shares key features with internal displacement, it remains legally distinct and must be adapted carefully, especially by excluding elements that do not apply, such as the requirement to cross an international border.

2.1. The refugee definition as guidance

Any attempt to define the internally displaced person must begin with the legal category that has shaped the field of forced migration for over seventy years: the refugee. The 1951 Convention Relating to the Status of Refugees, adopted in Geneva on 28 July 1951 and expanded by the 1967 Protocol, is more than just a

⁴⁷ African Union, *Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)*, 2009.

legal instrument: it is the closest thing the international community has to a universally shared language describing displacement⁴⁸. Its definition has been incorporated into domestic systems, applied by courts, interpreted by UNHCR, and shaped political discourse across the world. Despite its limitations, it offers a clear starting point, and it is for that reason that efforts to define the IDP status have so often begun by referencing the refugee framework.

Article 1A (2) of the 1951 Convention establishes the criteria that establishes when a person in flight qualifies for international protection. Under this provision, a refugee is someone who:

*“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country”*⁴⁹

It is worth noting that originally, the definition was limited both temporally and geographically: it applied only to events occurring before 1 January 1951, and states could choose to restrict their obligations to events in Europe. These restrictions reflected the post-war context in which the Convention was drafted, however, the 1967 Additional Protocol removed both restrictions, making the definition applicable to contemporary displacement anywhere in the world⁵⁰.

Despite its concise wording, the definition hides a complex legal reasoning. The core requirement of “well-founded fear” combines both subjective and objective elements: the applicant must genuinely fear persecution, and that fear must be supported by independent and credible evidence⁵¹. Similarly, the notion of

⁴⁸ Convention Relating to the Status of Refugees, 28 July 1951, *United Nations Treaty Series*, vol. 189, p. 137; Protocol Relating to the Status of Refugees, 31 January 1967, *United Nations Treaty Series*, vol. 606, p. 267.

⁴⁹ Convention Relating to the Status of Refugees, art. 1A (2), 28 July 1951, *United Nations Treaty Series* 189, p. 137.

⁵⁰ UNHCR, *The 1951 Convention and 1967 Protocol Relating to the Status of Refugees: Introductory Note*, December 2010.

⁵¹ EUAA, 'Well-founded fear' in *EASO Practical Guide: Qualification for international protection*, January 2022.

“persecution” refers to serious harm, involving grave violations of fundamental human rights, that exceeds simple discrimination⁵². It marks a threshold of severity that activates international protection, distinguishing refugees from other categories of displaced persons. Referencing the wording of art.1A (2), the five enumerated grounds of discrimination, race, religion, nationality, social and political affiliation, form a closed list, ensuring that the harm is anchored to identity or belief. Here it's important to note that neither economic deprivation nor generalized insecurity meet the threshold for protection. Furthermore, the condition of being “outside” the country of nationality is more than a geographical fact as it marks the point at which a domestic protection issue becomes an international obligation. Finally, the inability or unwillingness to seek national protection reflects the, very common, situation in which the state of origin is either directly responsible for the persecution or is incapable of providing effective protection⁵³.

Several features have combined to make this definition the central reference point in displacement discourse. Its most notable strength is its almost universal ratification: over 145 states are party to either the Convention, the Protocol, or both, making it so that the definition has the widest reach of any other category in forced migration law. The wide acceptance of the 1951 Convention refugee definition has led to a large and influential body of interpretative practice. Examples range from international instruments like the UNHCR’s *Handbook on Procedures and Criteria for Determining Refugee Status*⁵⁴ to national refugee status procedures and jurisprudence. Courts around the world have examined the 1951 Convention, interpreting it to better suit specific challenges in their own countries.

The centrality of the refugee definition is reinforced by UNHCR’s original mandate, set out in its 1950 Statute, which linked the organization’s protection role to those

⁵² EUAA, 'Persecution' in *EASO Practical Guide: Qualification for international protection*, January 2022.

⁵³ United Nations High Commissioner for Refugees (UNHCR), *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* (UNHCR, 2011), para. 37-65.

⁵⁴ *Ibid.*

falling under the Convention criteria for refugee⁵⁵. Over time, the General Assembly authorized UNHCR to assist other categories of displaced persons, including stateless persons, and in certain circumstances, IDPs, recognizing the Office's established competence in humanitarian emergencies. In the specific case of internally displaced persons, UNHCR's role has been shaped by successive resolutions and inter-agency agreements within the UN's cluster system, which assigned it a leading position in protection, camp coordination, and emergency shelter in displacement caused by armed conflict⁵⁶.

Since its adoption, states, humanitarian actors, and academics have considered the 1951 Convention definition as the central reference point for forced migration law. It is understandable then, that many have considered adopting this well-developed instrument for the IDP category, as its structure offers a high level of precision and clarity. The definition keeps focus on protection needs, focusing on the relationship between the individual and the state. This relationship is central as it provides the basis for refugee rights: protection is triggered whenever the state of origin is unable or unwilling to safeguard its citizens. Therefore, applying the same approach to IDPs would make adoption easier by grounding protection in the same developed and widely accepted refugee framework. From an operational perspective, using concepts already familiar to government, UN agencies and NGOs, would surely make implementation easier and more consistent.

Despite its strengths, the refugee definition cannot be fully applied to the IDP context. The most obvious difference is the cross-border element. This is not a small detail but the defining feature of the refugee concept: crossing an international border triggers the obligations of another state and activates the international protection system under the 1951 Convention. By contrast, IDPs remain within their own country, under the authority and legal responsibility of their own government. This means that transposing the "outside the country" requirement to an IDP definition would erase the category itself. Furthermore, the "persecution"

⁵⁵ UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees* (A/RES/428(V)), 14 December 1950).

⁵⁶ Roberta Cohen, "UNHCR: Expanding Its Role with IDPs," *Forced Migration Review* 23 (2005).

requirement in the refugee definition, tied to the five Convention grounds of race, religion, nationality, and political and social affiliation, is too narrow for the current drivers of internal displacement. These can include extreme climate events, such as devastating floods; development projects that destroy inhabited areas without providing resettlement; or gradual environmental degradation that forces communities to flee. All this to say that oftentimes displacement is not caused by persecution as it is understood in the Convention, still, the need for protection is clear.

There is also the risk of “over-legalization”. In asylum cases, in order to be recognized as a refugee under the 1951 convention, applicants often must go through a complex and long procedure. However, in many IDP situations, especially in the case of sudden disasters, the priority should be rapid identification and delivery of aid, not a lengthy process to determine status⁵⁷. Imposing a process similar to refugees could then delay responses in cases where speed is most critical.

Lastly, political sensitivities also add to the problem: many states resist outside involvement in what they see as internal affairs and would reject an IDP definition that mirrors an international refugee treaty, seeing it as a way of adding new hidden obligations.

The key point, then, is not that the refugee definition is irrelevant to IDPs, but that it must be used as a guide rather than a direct template. Some elements translate well, such as the emphasis on involuntary movement; the centrality of protection needs; and the recognition that displacement is often a result of the state’s failure. Other elements, however, require adjustment. First of all, the territorial element must be inverted, as for IDPs the defining feature is that they remain within their country's borders. Similarly, the causes of displacement must be widened to match the full range recognized in the *UN Guiding Principles on Internal Displacement* and regional frameworks such as the African Union’s *Kampala Convention*,

⁵⁷ UNHCR, “UNHCR’s Role in IDP Protection: Opportunities and Challenges,” *Forced Migration Review* 2 (2008).

covering conflict, generalized violence, human rights abuses, and disasters, whether natural or human-made. Identification procedures should also be flexible, adapted to the specific context of IDPs, and avoid the heavy evidence requirements used in asylum cases, which cannot be applied in emergency situations requiring immediate humanitarian intervention.

Ultimately, the 1951 Convention refugee definition plays a double role in the discourse on internally displaced persons. First of all, it provides a clear model centered in protection that can guide the development of an IDP definition. Secondly, it highlights, by contrast, the distinctive characteristics of internal displacement and the need for a specific framework tailored to those realities. This dual role provides a solid basis for the comparative analysis in Section 2.2, allowing a clear and structured examination of the similarities and differences between the two categories⁵⁸.

2.2. IDPs and refugees: similarities and differences

Recognizing the similarities in both causes and vulnerabilities, the international community has long struggled with whether and how to extend aspects of refugee law protection to internally displaced persons. As a matter of fact, both groups are uprooted suddenly or under pressure, leaving behind homes, possessions, livelihoods, and social networks. The triggers are often the same: conflict, violence, and gross human rights violations. The lived experiences of refugees and IDPs frequently overlap both face heightened exposure to violence, loss of access to essential services, disruption of community structures, and threats to physical security and dignity.

While these shared drivers create vulnerabilities common to both groups, experiences vary. Displacement often strips women and girls of the informal protections provided by family or community, forcing them to navigate unfamiliar

⁵⁸ Catherine Phuong, *The International Protection of Internally Displaced Persons* (Cambridge University Press, 2005), Ch. 1 “Internally Displaced Persons and Refugees: Conceptual Differences and Similarities.”

and unsafe environments alone. Whether within their own country or across an international border, the loss of protective structures increases risks of sexual and gender-based violence (GBV) during flight, in shelters, or in private host settings. Furthermore, access to sexual and reproductive healthcare, including menstruation, prenatal and postnatal care, and safeguards against exploitation, can be lost almost immediately⁵⁹. These risks are heightened by the lack of gender sensitive humanitarian responses and by gaps in data collection that often leave out the specific needs of displaced women and girls⁶⁰.

Children in displacement face a unique set of threats. Education can be interrupted for long periods of time, especially when schools are damaged or when enrollment depends on documents lost during flight. The loss of safe spaces for play and learning heightens psychological distress, often worsened by the trauma of witnessing violence and losing family members. Furthermore, in areas affected by conflicts, when families lose their source of income children face a much greater risk of being recruited by armed forces or groups or pushed into dangerous work⁶¹. Another population whose needs are often overlooked is older people and persons with disabilities. As a matter of fact, they are frequently left out of humanitarian needs assessments, particularly when relief measures are designed for “mobile” populations able to travel long distances. Factors such as mobility issues, chronic health conditions, and reliance on assistive medical devices can make evacuation or relocation impossible. After displacement, barriers such as inaccessible facilities, long distance to water and food distribution points, and the absence of targeted measures heighten the risk of neglect⁶².

⁵⁹ Internal Displacement Monitoring Centre (IDMC), *Gender Dynamics in Internal Displacement* (IDMC, 2023).

⁶⁰ Internal Displacement Monitoring Centre (IDMC). *Twice Invisible: Women and Girls in Internal Displacement*. IDMC, 2020.

⁶¹ UNICEF, *In Focus: Protecting Children Affected by Migration and Forced Displacement* (UNICEF Regional Office for Europe and Central Asia, 2023).

⁶² Human Rights Watch. *People with Disabilities in Humanitarian Emergencies and Situations of Risk*. February 22, 2023; UNHCR, *Working with Older Persons in Forced Displacement* (UNHCR, 2021).

Lastly, members of ethnic, religious, or linguistic minorities often find that displacement intensifies already existing discrimination. In some situations, targeted attacks are the very reason they are forced to move; in others, prejudice and exclusion continue in the places where they seek safety⁶³. Furthermore, when minority and indigenous communities lose their lands, often central to their cultural identity, it threatens not only their livelihoods but also the transmission of their language, traditions, and spiritual practices to future generations.

Beyond these common humanitarian concerns, differences also emerge in how each group moves toward long-term recovery and in how the international community responds. As for refugees, they operate under a binding international regime: the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. This legal framework, supervised by the UN High Commissioner for Refugees (UNHCR), is complemented in some regions by additional instruments, notably the 1969 *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*⁶⁴, the 1984 *Cartagena Declaration on Refugees in Latin America*⁶⁵, and the European Union's *Qualification Directive* and *Dublin III Regulation* in Europe⁶⁶. These frameworks expand or adapt the refugee definition to regional contexts, while reinforcing the core principles of international refugee law.

One of the first significant innovations in regional refugee lawmaking came with the 1969 *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*. The treaty kept the definition from the 1951 Convention but expanded it to include those forced to leave their country due to “*external aggression, occupation,*

⁶³United Nations High Commissioner for Refugees (UNHCR), *Working with National or Ethnic, Religious and Linguistic Minorities and Indigenous Peoples in Forced Displacement* (UNHCR, 2011).

⁶⁴ Organization of African Unity (OAU), *Convention Governing the Specific Aspects of Refugee Problems in Africa*, Sept. 10, 1969, 1001 U.N.T.S. 45.

⁶⁵ Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, Nov. 22, 1984, reprinted in *Annual Report of the Inter-American Commission on Human Rights*, OAS Doc. OEA/Ser.L/V/II.66/doc.10, rev.1 (1984–85).

⁶⁶ European Union, *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection* (recast), OJ L 337, Dec. 20, 2011

*foreign domination, or events seriously disturbing public order”*⁶⁷. This broader approach, which is legally binding for all African Union member states, reflects the post-colonial realities of the continent, where mass displacement is often caused by regional conflicts and instability.

Two decades later, during the 1980s, Central America faced a similar crisis as civil wars across the region uprooted thousands. Taking inspiration from the AU approach, lawmakers expanded the concept of refugees adding grave violation of human rights as a criterion for qualification. As a matter of fact, article 3 of the 1984 Cartagena Declaration, includes among refugees those whose life is endangered by “*generalized violence, foreign aggression, internal conflicts, massive violations of human rights, or other circumstances seriously disturbing public order*”⁶⁸. Despite being a non-binding instrument, the definition has been incorporated into legislation of many states in Central America. For instance, in Mexico, the criteria have been implemented into national legislation through the 2001 *Ley sobre Refugiados, Protección Complementaria y Asilo Político*, recognizing those uprooted by general violence and human rights violations as refugees⁶⁹. Similarly, Brazil employed the Cartagena definition to grant refugee status to Venezuelans fleeing human right abuses in 2019⁷⁰. Furthermore, UNHCR reports, that since its adoption in 1984, over 15 states have implemented the definition set out in the Convention into their national frameworks⁷¹.

In Europe, refugee protection is organized under the Common European Asylum System (CEAS), which sets out to harmonize asylum standards across all EU member states. The *Qualification Directive* (Directive 2011/95/EU) maintains the Convention’s core definition but also grants protection to those at risk of serious

⁶⁷ Organization of African Unity (OAU), *Convention Governing the Specific Aspects of Refugee Problems in Africa*, Sept. 10, 1969, 1001 U.N.T.S. 45, art. 1(2),

⁶⁸ Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, Nov. 22, 1984, art. 3.

⁶⁹ Government of Mexico, *Ley sobre Refugiados, Protección Complementaria y Asilo Político*, *Diario Oficial de la Federación*, 27 January 2011.

⁷⁰ UNHCR. “Brazil Applies Cartagena Criteria to Venezuelan Refugees.” Last modified July 24, 2019.

⁷¹ UNHCR. *30 Years of the Cartagena Declaration on Refugees*. UNHCR Regional Office for the Americas, 2014

harm, such as the death penalty, torture, or indiscriminate violence⁷². The framework is completed by the *Dublin III Regulation* (Regulation No 604/2013), which determines which member state is responsible for examining asylum claims⁷³.

Taken together, these regional definitions show that the concept of “refugee” is not frozen in time. They demonstrate how law can evolve to match regional realities, address displacement drivers that the 1951 Convention does not cover, and in some cases, address struggles that mirror those faced by IDPs.

By contrast, internally displaced persons remain outside the scope of these instruments unless they cross an international border. Their protection depends on international human rights law, international humanitarian law, and non-binding instruments such as the 1998 Guiding Principles on Internal Displacement. Regional instruments are rare, notably the Kampala Convention, stands out as the only regional binding instrument dedicated to IDPs. In situations of internal displacement, the state of origin is the one bearing primary responsibility for protection and assistance, an advantage when the state acts in good faith, but a serious danger when it is the source of persecution.

Displacement location also matters refugees are placed into reception centres or camps, making registration, documentation, and assistance somewhat easier, while IDPs are often dispersed in urban areas, hosted informally, or in unmanaged sites, complicating aid delivery and needs assessment. Remaining inside their own country means humanitarian access is controlled, and sometimes blocked, by the same authorities responsible for their displacement. Furthermore, while loss of documentation affects both groups, for IDPs replacement is not governed by standardized international procedures, but it depends on domestic bureaucracies that may be ineffective or discriminatory. Without identity documents or property titles, they risk exclusion from aid, denial of restitution, disenfranchisement, and

⁷² European Union, *Directive 2011/95/EU* (recast), OJ L 337, Dec. 20, 2011.

⁷³ European Union, *Regulation (EU) No 604/2013* (recast), OJ L 180, June 29, 2013.

obstacles to education or housing⁷⁴. Moreover, the Internal Displacement Monitoring Centre (IDMC) reports that many IDPs in urban areas live without formal rental agreements, often staying with relatives, or in makeshift shelters. This leaves them without proof of residence, a requirement that is often crucial for humanitarian assistance⁷⁵. As an example, a *Forced Migration Review* study on urban IDPs in Europe noted that Roma IDPs in Serbia, must present a housing contract in order to obtain personal documentation, social assistance, or healthcare, a condition many cannot satisfy⁷⁶.

Proximity to the original threat is another critical difference. While crossing a border can place refugees beyond the reach of immediate danger, IDPs often remain within areas controlled by armed actors or authorities responsible for abuses. As the International Committee of the Red Cross notes, IDPs in conflict zones live under the constant danger of renewed violence, forced recruitment, sexual and gender-based violence, or the destruction of essential civilian infrastructure⁷⁷. Similarly, UNHCR warns that remaining close to the source of danger exposes displaced populations to heightened risks of human rights violation, including arbitrary arrest or freedom of expression. It also often limits their freedom of movement, with measures such as checkpoints and curfews. Lastly, proximity to conflict means that humanitarian access is often obstructed, or entirely denied entry, restricting access to food, healthcare and other essential services⁷⁸. In some contexts, shifting front lines or the fragmentation of armed groups force IDPs to move repeatedly within the same conflict zone, exacerbating their vulnerabilities. This cycle increases their exposure to violence and exploitation, further limits

⁷⁴ Norwegian Refugee Council. *Barriers from Birth: Undocumented Children in Iraq Sentenced to a Life on the Margins*. (NRC, 2015); Inter-Agency Standing Committee. *IASC Framework on Durable Solutions for Internally Displaced Persons*. Brookings Institution–University of Bern Project on Internal Displacement, April 2010.

⁷⁵ Internal Displacement Monitoring Centre. *Home Sweet Home: Housing Practices and Tools that Support Durable Solutions for Urban IDPs*, IDMC, 2015.

⁷⁶ Silvia Montemurro and Nadine Walicki, “Invisibility of Urban IDPs in Europe,” *Forced Migration Review*, no. 63 (October 2020).

⁷⁷ International Committee of the Red Cross, *Internal Displacement in Armed Conflict: Facing up to the Challenges* (ICRC, 2009).

⁷⁸ United Nations High Commissioner for Refugees, *Handbook for the Protection of Internally Displaced Persons* (UNHCR, 2010), sec. 2.1, 4.

access to aid, and makes it harder to find a lasting solution⁷⁹. These conditions weaken the principle according to which returns, and relocation should always be voluntary, safe and dignified, as political agendas and economic pressures often lead to premature returns, placing IDPs back into situations where their safety and rights remain at risk⁸⁰.

In each of these areas, the parallels between IDPs and refugees reveal how displacement weakens both security and dignity; the differences, however, explain why simply importing the refugee protection model cannot fully address the needs of those displaced within national borders. As High Commissioner Ogata famously stated, “protection must be guided by need, not by legal status”⁸¹, a principle that must serve as a base for any effective framework for addressing internal displacement. Refugees benefit from an established international regime that offers three recognized durable solutions: voluntary return, local integration, or resettlement in a third country, all supported by principles of international responsibility and burden sharing. As for IDPs, the same solutions exist in theory, but they take place entirely within their own country, with no international oversight or standards, linking success to political will, institutional capacity, and good faith. This reliance on domestic actors, without binding international obligations or enforcement mechanisms, creates a structural protection gap.

Furthermore, unlike most refugee situations, which often attract consistent donor support, diplomatic engagement, and media coverage, IDP crises, even when larger in scale and longer in duration, tend to receive less attention, fewer resources, and weaker advocacy. As UNHCR notes in its own evaluation of its engagement with IDPs, responses to internal displacement are consistently underfunded compared to refugee operations: in 2022, IDP programmes received on average only around 50–55 percent of their funding goals, while refugee operations received over

⁷⁹ Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2024* (IDMC, 2024), Part 1, “Global Overview,” and relevant “Regional Overviews”.

⁸⁰ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2 (1998). Principle 28.

⁸¹ Sadako Ogata, “*Protecting People on the Move*,” address at the Center for the Study of International Organization, New York, 18 July 2000.

70 percent⁸². Similarly, the 2024 *Global Report on Internal Displacement* highlights this gap in funding: by the end of 2023, 75.9 million people were living in internal displacement worldwide, yet funding and institutional capacity failed to fulfill even their most basic protection and assistance needs⁸³.

2.3. Internal Displacement as a Political and Normative Category

The category of the “internally displaced person” is often framed as a technical definition, nothing more than an administrative label that allows humanitarian actors to identify, count, and assist those who have been forced to leave their homes but remain within their own state. On the surface, this definition seems straightforward, offering an objective framework for delivering aid and shaping interventions, however, this apparent clarity hides a complex conceptual instability. As a matter of fact, an IDP is not simply a person in motion; it is someone whose movement fractures the normative framework that underpins the citizen-state relationship. As Deng has argued, internal displacement represents a breakdown in this “social contract”, namely the expectation that a state will protect and be responsible for its citizens⁸⁴.

Understanding internal displacement then, is not simply about identifying who has moved and why: it requires examining how this movement is framed and regulated within different legal and political systems. The IDP category is fundamentally political and normative, shaped by tensions between sovereignty and protection, recognition and invisibility, inclusion, and exclusion. As such, it is not just a humanitarian label, but a starting point for examining matters of governance, rights, and responsibility⁸⁵.

⁸² United Nations High Commissioner for Refugees, *Evaluation of UNHCR’s Engagement in Situations of Internal Displacement (2019–2023)* (UNHCR Evaluation Office, 2024).

⁸³ Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2024* (IDMC, 2024).

⁸⁴ Francis M. Deng, *Internally Displaced Persons: Compilation and Analysis of Legal Norms*, E/CN.4/1996/52/Add.2 (UN Commission on Human Rights, 5 December 1995).

⁸⁵ 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).

At the core of the IDP category lies what can be described as a *definitional paradox*⁸⁶. The widely accepted definition contained in the 1998 *Guiding Principles on Internal Displacement* was intentionally designed to include a wide spectrum of displacement drivers, from armed conflict and generalized violence to systematic human rights violations, as well as natural or human-made disasters⁸⁷. This inclusivity reflects an effort to make sure the definition remains relevant with regards to the evolving realities of displacement. However, this flexibility opens space for ambiguity, selective interpretation, and political opposition. Further challenges also emerge by how the definition's key terms are interpreted in practice, particularly those that determine whether a movement is recognized as displacement.

Central to the definition of IDP under the *Guiding Principles*, is the requirement that movement should be “forced or obliged,” introducing a threshold of coercion that is difficult to apply consistently. Determining what level of threat is enough to qualify as compulsion is not easy. Economic desperation may meet the standard in some interpretations, while others limit coercion to the context of violence or repression. The same is true for climate induced migration, as interpretation differs on whether it should be considered “forced”, especially when it's not caused by a single catastrophic event, but it is the result of gradual environmental degradation⁸⁸. The effects of these definitional ambiguities are most visible when analyzing how states and other actors either report or withhold information on displacement⁸⁹. Different actors, from states to humanitarian agencies, often choose to frame and interpret displacement in ways that serve their own priorities. This dynamic is reinforced by the fact that the *Guiding Principles* are non-binding: states are under

⁸⁶ Walter Kälin, *Internal Displacement and the Law* (Oxford University Press, 2023), para. 54: “The definition of an internally displaced person is intended as a purely descriptive tool, but it inevitably shapes legal and political expectations about the responsibilities of states and the rights of those displaced”.

⁸⁷ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2 (11 February 1998)

⁸⁸ Walter Kälin, *Guiding Principles on Internal Displacement: Annotations*, rev. ed. (American Society of International Law, 2008), 2–4: “the notion of being ‘forced or obliged’ to flee is not limited to direct physical threats but may, in some contexts, encompass severe deprivation of economic and social rights.”

⁸⁹ Bríd Ní Ghráinne, “Internally Displaced Persons and International Law,” *International Journal of Refugee Law* 33, no. 2 (2021): 366–378.

no legal obligation to adopt them, and even when the definition is formally recognized, application is often inconsistent and influenced by politics.

Some governments underreport the number of IDPs to avoid international attention or criticism. In Sudan, for example, state authorities have repeatedly denied official UN estimates of displacement in Darfur, reporting lower numbers to understate the ongoing crisis and avoid possible international intervention⁹⁰. In other cases, displacement is denied entirely, with governments labelling affected populations as “relocated,” “evacuated,” or “resettled.” In Myanmar, for example, Rohingya confined to camps in Rakhine State have been officially described as “relocated” or “temporarily accommodated” despite transfers being carried out under threat of punishment.⁹¹ By contrast, some governments have exaggerated IDP numbers in order to attract more humanitarian aid and resources. In Colombia, for instance, after the adoption of Law 387 of 1997, which granted registered IDPs specific benefits, some municipalities were accused of intentionally inflating displacement data to secure additional resources⁹². Similar patterns have been observed in post-earthquake Haiti, as IOM reports noted that some camp committees were exaggerating resident numbers to increase the amount of supplies delivered to their communities⁹³.

These practices demonstrate that definitional ambiguity can easily become a tool of governance, controlling what is officially recognized as displacement, how it is described, and where responsibility is placed. These patterns of underreporting, inflation or relabeling, reveal that data on displacement is never neutral: it is the product of political agendas and strategic interests, rather than objective measurements of reality. However, the same mechanisms that allow data to be manipulated are also those that make displacement visible. As a matter of fact, one

⁹⁰ Internal Displacement Monitoring Centre (IDMC), *Sudan – The World’s Largest Internal Displacement Crisis Deepens* (IDMC, 2025).

⁹¹ United Nations High Commissioner for Refugees (UNHCR), *Myanmar: 2023 Humanitarian Needs Overview* (UNHCR, 2023).

⁹² 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).

⁹³ International Organization for Migration (IOM). *Haiti: Displacement Tracking Matrix (DTM) Report, May 2017*.

of the most significant consequences of establishing the IDP category, it's its capacity to render displacement visible. To be recognized as displaced means being counted, identified, and targeted for assistance. As established, recognition is not a neutral or "technical exercise" as data on internal displacement is "inherently political, sensitive, and contentious"⁹⁴.

In this context, data becomes a source of conflict, as differences in estimates collected by governments, humanitarian agencies, and monitoring bodies create a climate of uncertainty. This instability has concrete consequences: it influences how resources are distributed, how programmes are designed, and how policies are developed⁹⁵. It also influences the way displacement is framed by the media, affects legal recognition and judicial rulings, and ultimately determines which displaced population is acknowledged and who is overlooked. As the Internal Displacement Research Programme notes, credible data is often the starting point for governments to acknowledge displacement and accept responsibility for addressing it. Similarly, humanitarian actors such as the Joint IDP Profiling Service (JIPS) and the Expert Group on Refugee, IDP and Statelessness Statistics (EGRISS), highlight the importance of integrating IDPs into national statistical systems, to ensure no one is left behind⁹⁶.

Over the last two decades, significant progress has been made in improving IDP data collection mechanism, with initiatives such as the Internal Displacement Monitoring Centre's global database and IOM's Displacement Tracking Matrix. The IOM's *Internal Displacement Data Strategy 2021–2025* frames displacement data as indicator of a nation's resilience, as well as a key resource for guiding

⁹⁴ Cardona-Fox, Gabriel. 2020. *The Politics of IDP Data: Improving the Use of IDP Data and Evidence*. Internal Displacement Research Programme, Submission to the High-Level Panel on Internal Displacement.

⁹⁵ UNHCR, *Obtaining Representative Data on IDPs: Challenges and Recommendations*, UNHCR Statistics Technical Series 2017/1 (UNHCR, 2017).

⁹⁶ Joint IDP Profiling Service (JIPS), *International Recommendations on IDP Statistics (IRIS)* (JIPS, 2020); Expert Group on Refugee, IDP and Statelessness Statistics (EGRISS), *Enhancing the Visibility of Refugees, IDPs and Stateless Persons in the SDGs* (United Nations Statistical Division, 2023).

humanitarian interventions, and shaping inclusive policies⁹⁷. However, as the High-Level Panel on Internal Displacement has emphasized, improvement in data collection and analysis alone, while important, cannot resolve the “politicisation” of displacement data. Durable solutions then, require not only improved methodologies, but mainly constant advocacy and diplomatic efforts to influence the political will of states⁹⁸.

Finally, to fully understand the legal dimensions of internal displacement, it is useful to place the IDP category within a broader comparative framework alongside similar situations of vulnerability and exclusion. An interesting comparison is the one with the stateless person, someone who may have never moved from their place of habitual residence but who lacks legal recognition by any state. Similarly to internal displacement, statelessness is marked by *legal invisibility*, a condition that leaves individuals vulnerable to exclusion from public services, exposure to exploitation, and recurring human rights violations⁹⁹. This comparison is useful as it highlights how the element of physical movement is often considered as the only trigger for protection in displacement frameworks. As a result, those whose vulnerability is tied to their lack of legal recognition, rather than movement, are often excluded from the protections afforded to IDPs. A second comparison can be drawn with victims of human trafficking. Many are moved against their will within national borders through coercion or abuse of power. Their movement is involuntary, and they face severe dangers, yet they are rarely classified as internally displaced¹⁰⁰. This is because their experience does not match prevailing IDP narrative, which mainly sees displacement as a result of armed conflict, violence or sudden disasters. The exclusion of trafficking victims exposes the limitations of the current definition for displacement, highlighting how definitional rigidity risks excluding those needing protection. The main takeaway then, is to work towards a

⁹⁷ International Organization for Migration (IOM), *Internal Displacement Data Strategy 2021–2025* (IOM, 2021).

⁹⁸ High-Level Panel on Internal Displacement, *Shining a Light on Internal Displacement: A Vision for the Future* (New York: United Nations, 2021).

⁹⁹ United Nations High Commissioner for Refugees (UNHCR), *Handbook on Protection of Stateless Persons* (UNHCR, 2014).

¹⁰⁰ United Nations Office on Drugs and Crime (UNODC), *Global Report on Trafficking in Persons 2022* (UNODC, 2022).

more inclusive understanding of displacement that recognizes diverse causes, movement patterns, and realities.

2.3.1. Climate-Induced Internal Displacement

Climate change requires particular attention, as it is both a direct driver of internal displacement, while also aggravating existing challenges such as conflict, poverty, and weak governance. International bodies such as the UNHCR, IOM, and IPCC consistently identify it as one of the most complex displacement risk factors of our time¹⁰¹. As a matter of fact, climate change tests the boundaries of the IDP existing definition. While the GPID recognize displacement caused by armed conflict, violence, and sudden natural disaster, they struggle to address slower phenomena, such as environmental degradation or desertification. These processes are often unaddressed, despite their critical impact on migration¹⁰².

As mentioned, climate-induced internal displacement is not limited to sudden events such as cyclones, floods, or wildfires. These events fall more easily under the existing IDP definition, as they can be classified as “sudden disasters”. By contrast, slow-onset processes, including sea-level rise, droughts, and ecosystem degradation, unfold over years, gradually making areas uninhabitable and forcing relocation. These cases risk being excluded from the current framework. Furthermore, most of the time, climate events intersect with conflict, political instability, or economic collapse, blurring the lines between environmental and political or classic displacement. The result is a protection gap: large populations experiencing grave, climate-related displacement may not be formally recognized as IDPs, leaving them outside the scope of targeted protection and assistance¹⁰³.

¹⁰¹ International Organization for Migration, *Internal Displacement in the Context of the Slow-Onset Adverse Effects of Climate Change* (Geneva: IOM, 2020).

¹⁰² United Nations High Commissioner for Refugees, *Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters* (UNHCR, 2020).

¹⁰³ Kuusipalo, Rina. “Exiled by Emissions—Climate Change Related Displacement and Migration in International Law: Gaps in Global Governance and the Role of the UN Climate Convention.” *Vermont Journal of Environmental Law* 18, no. 4 (2017): 614–647.

As for the specific vulnerabilities of affected communities, economic and social context matters. Communities that already face poverty, insecure land tenure, or political exclusion are less able to adapt to environmental stress and more likely to be displaced¹⁰⁴. In rural areas where livelihoods rely more on agriculture even small environmental changes can have severe consequences. While in urban settings, climate events such as heatwaves or flooding affect informal settlements the most, where inadequate infrastructure heightens vulnerabilities¹⁰⁵. In all these settings governance plays a decisive role: if local institutions are weak, disaster preparedness is insufficient, and climate hazards are more likely to translate into displacement.

The lack of binding international obligations addressing climate related internal displacement causes significant protection gaps. Populations displaced by gradual environmental degradation fall into a legal grey zone: neither recognized as IDPs nor eligible for other forms of international protection¹⁰⁶. Without formal recognition, climate-displaced populations can be excluded from national IDP registries and humanitarian assistance. Data collection is also affected as slow-onset displacement is harder to track, and without political cooperation to count these movements, they often remain invisible.

While international frameworks on climate displacement do exist, they are often insufficient. Under the United Nations Framework Convention on Climate Change (UNFCCC) displacement is addressed indirectly through adaptation frameworks such as the Warsaw International Mechanism for Loss and Damage¹⁰⁷. However, these mechanisms focus on cross-border impacts or on financial support for

¹⁰⁴ Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation and Vulnerability*, ed. Hans-Otto Pörtner et al. (Cambridge University Press, 2022), chap. 8.

¹⁰⁵ United Nations Human Settlements Programme (UN-Habitat), *World Cities Report 2022: Envisaging the Future of Cities* (UN-Habitat, 2022), 156–158.

¹⁰⁶ United Nations High Commissioner for Refugees, *Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters* (UNHCR, 2020).

¹⁰⁷ UNFCCC, *Technical Guide on Integrating Human Mobility and Climate Change Linkages into Relevant National Climate Change Processes* (UNFCCC, 2024).

adaptation, rather than on the specific protection needs of internally displaced populations. A more inclusive approach would require including displacement prevention and protection strategies into national adaptation plans, ensuring measures are designed to reduce displacement risk¹⁰⁸.

As present, climate induced internal displacement exposes three key limitations of the current IDP framework. First of all, it challenges the trigger-based model by showing that displacement can result from gradual, cumulative processes. Secondly, it highlights the inadequacy of frameworks that treat displacement as a one-time event rather than as a protracted condition. Lastly, it highlights the need for coordinated responses that link humanitarian relief, development planning, and climate adaptation¹⁰⁹. Addressing these gaps requires both legal and practical changes. The IDP definition should be broadened to cover all climate-related displacement, while governments and humanitarian actors must strengthen early warning systems, risk reduction measures, and adaptive capacity, while protecting and supporting those already displaced¹¹⁰.

Ultimately, climate-induced internal displacement is a core challenge to the IDP framework as it is a defining test of its relevance in the twenty-first century. The future of the IDP category under the *Guiding Principles* then, will depend on whether states and the international community adapt it to address the full complexity of displacement, or allow it to remain too narrow to protect those in need.

As patterns of displacement grow more complex, the category of internally displaced person is being stretched to its limits, exposing the limitations of

¹⁰⁸ Executive Committee of the Warsaw International Mechanism for Loss and Damage, *Recommendations on Integrated Approaches to Averting, Minimizing and Addressing Displacement Related to the Adverse Impacts of Climate Change* (UNFCCC, 2023).

¹⁰⁹ United Nations High Commissioner for Refugees, *Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters* (UNHCR, 2020).

¹¹⁰ Rina Kuusipalo, "Exiled by Emissions: Climate Change Related Displacement and Migration in International Law: Gaps in Global Governance and the Role of the UN Climate Convention," *Vermont Journal of Environmental Law* 18, no. 4 (2017).

conventional frameworks. The IDP must be understood not simply as someone who has moved, but as a person whose rights have been disrupted. The category should trigger obligations, guide institutional responses, and hold up under political pressure. This means shifting from simply recording displacement as a fact to recognizing it as a condition that demands a clear and structured response. It's not enough to note someone has been displaced: one must also specify what rights are triggered, what protection is needed, and who is responsible for providing it¹¹¹.

Any effective framework must be grounded in rights. An IDP is not only a passive recipient of assistance, but a person whose rights continue to apply while they are displaced. The challenge lies in balancing sovereignty and protection, affirming the state's primary responsibility to its citizens while recognizing the limits of that role in situations of conflict, fragility, or authoritarianism. Effective protection requires mechanisms that enable international intervention in grey areas where authority is weak, legitimacy is disputed, and accountability is uncertain¹¹².

This chapter has outlined the conceptual foundations of internal displacement, showing the IDP category is shaped by both political interests and normative commitments. It has examined how definitions, institutions, and procedures influence its meaning and use. Yet conceptual clarity is only the first step: the real test is whether legal systems at the international, regional, and national levels can turn these ideas into binding norms.

The next chapter builds on this foundation by examining the legal regimes that govern displacement, marking a shift from conceptual analysis to normative application. It will then examine how rights are defined, how protection is put into practice, and whether current laws and policies are able to meet the realities of displacement.

¹¹¹ Walter Kälin, "The Guiding Principles on Internal Displacement as International Minimum Standard and Protection Tool," *Refugee Survey Quarterly* 24, no. 3 (2005).

¹¹² United Nations High Commissioner for Refugees, *Handbook for the Protection of Internally Displaced Persons* (UNHCR, 2010), 27–29.

CHAPTER 2

INTERNATIONAL LEGISLATION ON IDPs

1. Development of law on the protection of IDPs — 1.1. The 1951 Refugee Convention and the 1967 Protocol — 1.2. Post-cold war and the humanitarian crisis of the 1990s — 1.3. The 1992 Appointment of the UN Representative on Internally Displaced Persons and the Origins of the Special Rapporteur Mandate — 2. A turning point: The Guiding Principles on Internal Displacement of 1998 — 2.1. protection against displacement (principles 5 to 9) — 2.2. protection during displacement (principles 10 to 23) — 2.3. the framework for humanitarian assistance (principles 24 to 27) — 2.4. protection during return, local integration, and resettlement (principles 28 to 30) — 2.5. Relevance and weaknesses of the guiding principles — 3. Regional legislation: The African regional approach to the protection of IDPs — 3.1. International Conference on the Great Lakes Region of 2006 — 3.2. The Kampala Convention of 2009

1. Development of law on the protection of IDPs

1.1. The 1951 Refugee Convention and the 1967 Protocol

The legal framework of forced migration begins with the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. These instruments form the basis of international refugee law, offering a definition, a protection regime, and a set of state obligations that have shaped decades of jurisprudence, policy, and humanitarian practice. The Convention's definition of a refugee, as stated in Article 1(a)¹¹³, is of someone outside their country of nationality, with a well-founded fear

¹¹³United Nations General Assembly, *Convention Relating to the Status of Refugees*, United Nations, Treaty Series, vol. 189, p. 137, adopted 28 July 1951, entered into force 22 April 1954, art. 1(a)(2) “For the purposes of the present Convention, the term ‘refugee’ shall apply to any person who [...] as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and

of persecution on specific grounds, and it draws a stark line between those who cross borders and those who do not. It is this territorial threshold that renders IDPs legally invisible within the refugee framework, despite facing similar threats and vulnerabilities.

The Convention is built upon several foundational principles that continue to shape international protection today. Among these, the principle of *non-refoulement* stands as a normative pillar: Article 33(1) of the Convention prohibits states from expelling or returning a refugee “to the frontiers of territories where his life or freedom would be threatened.”¹¹⁴ This principle is absolute and has since been reinforced by customary international law and human rights jurisprudence. Alongside non-refoulement, the Convention affirms *non-discrimination*, *non-penalization for illegal entry*, and the right to *access courts, education, employment, and identity documentation*.

The 1951 Convention, though still influential today, was created in response to the unique historical circumstances of its time. Drafted in the aftermath of World War II, it was designed to address displacement caused by events occurring in a specific timeline: before 1 January 1951 and limited to Europe¹¹⁵. Originally shaped keeping in mind post-war the Convention quickly proved inadequate as displacement crises spread across Asia, Africa, and Latin America. By the 1960s, its limitations were increasingly evident.

It was within this context that the 1967 Protocol Relating to the Status of Refugees¹¹⁶ was proposed. On the recommendation of the Executive Committee of

being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”

¹¹⁴ Ibid. art. 33(1) “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

¹¹⁵ United Nations, Convention Relating to the Status of Refugees, art. 1(b)(1) “For the purposes of this Convention, the words “events occurring before 1 January 1951” in article 1, section A, shall be understood to mean either (a) “events occurring in Europe before 1 January 1951”; or (b) “events occurring in Europe or elsewhere before 1 January 1951”; and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.”

¹¹⁶ United Nations General Assembly, *Protocol Relating to the Status of Refugees*, United Nations, Treaty Series, vol. 606, p. 267, adopted 31 January 1967, entered into force 4 October 1967

the United Nations High Commissioner for Refugees (UNHCR), the High Commissioner submitted a draft Protocol to the General Assembly via the Economic and Social Council. The Protocol was adopted by the General Assembly in Resolution 2198 (XXI)¹¹⁷ on 16 December 1966 and entered into force on 4 October 1967. Its goal was clear: to universalize the refugee definition by removing the temporal and geographic limitations of the original Convention. Article 1 of the Protocol states:

“For the purpose of the present Protocol, the term ‘refugee’ shall... mean any person within the definition of article 1 of the Convention as if the words ‘As a result of events occurring before 1 January 1951...’ and the words ‘...as a result of such events’ in article 1 A (2) were omitted.”¹¹⁸

This redaction broadened the Convention’s scope, making its protections applicable to refugees from any time or place, including contemporary and future crises. The Protocol also affirmed that:

“The present Protocol shall be applied by the States Parties hereto without any geographic limitation...”¹¹⁹

This marked a decisive shift from a “Eurocentric” framework to a global one, allowing states across the world to apply the Convention’s provisions to their own displacement contexts. Importantly, the Protocol reinforced cooperation with UNHCR, requiring states to provide information and statistical data on refugee conditions and legal frameworks, and to facilitate the High Commissioner’s supervisory role.

Despite broadening its scope, the Protocol was still based on the Convention’s core requirement: refugees must be outside their country of nationality. This territorial condition remained the trigger for international protection, excluding internally displaced persons. The Protocol’s silence on IDPs reflected state prioritization of

¹¹⁷ UN General Assembly, Resolution 2198 (XXI) (16 December 1966) UN Doc A/RES/2198(XXI)

¹¹⁸ 1967 Refugee Protocol, art. 1(2)

¹¹⁹ 1967 Refugee Protocol, art. 1(3)

sovereignty and their resistance to international intervention on matters of internal displacement. The 1967 Protocol, then stands as both milestone and mirror, showing international law's ability to adapt to changing patterns, while exposing its limits. Internally displaced persons, despite their vulnerability, remained beyond the legal scope of the refugee protection regime¹²⁰.

1.2. Post–Cold War and the Humanitarian Crisis of the 1990s

The end of the Cold War marked a turning point not only in global geopolitics but also in the legal and humanitarian response to displacement. The end of the century was marked by an increase of intrastate conflicts, state collapse, and civilian displacement, forcing the international community to confront a new reality: mass displacement occurring within state borders, often in contexts where the state itself was either the perpetrator or incapable of providing protection. The legal gap left by the 1951 Convention and its 1967 Protocol, both based on cross-border movement, became increasingly unbearable. Throughout the 1990s, high profile internal armed conflicts erupted across the world. The 1994 genocide in Rwanda, for example, displaced over a million people internally, and many were trapped in violent zones or under armed group control¹²¹. Similarly, in Sudan, prolonged civil war and scorched-earth tactics uprooted millions, often repeatedly¹²². These crises exposed a structural protection gap: internally displaced persons remained outside the reach of binding international legal frameworks.

In response, humanitarian institutions began to try and stretch their mandates attempting to extend aid. Under the leadership of High Commissioner Sadako

¹²⁰ This exclusion has been repeatedly noted by the UN Special Rapporteur on the Human Rights of Internally Displaced Persons, who has emphasized the need for a separate normative framework beyond the refugee regime. *see* United Nations Commission on Human Rights. *Report of the Representative of the Secretary-General on Internally Displaced Persons, Francis Deng*. E/CN.4/1996/52, 22 February 1996.

¹²¹ The UN estimates the number killed as 800,000, while the Rwandan Government estimate is 1,074,017 of whom 93.7 percent were Tutsi.

¹²² data shows around 4 million Sudanese were internally displaced, making it the largest internally displaced population in the world. *see* United States Committee for Refugees and Immigrants, *U.S. Committee for Refugees World Refugee Survey 1999 Sudan, 1 January 1999*; African Commission on Human and Peoples' Rights. *Sudan Human Rights Organisation & Centre on Housing Rights and Evictions v. Sudan*, Communications Nos. 279/03 and 296/05 (2009).

Ogata, UNHCR expanded its “operational coverage” to include internally displaced persons, particularly in situations where they co-existed with refugees or where state protection was absent. This expansion was controversial as UNHCR’s Statute did not explicitly authorize work with IDPs, but still it was justified on moral grounds. As High Commissioner Ogata herself argued, “protection must be guided by need, not by legal status.”¹²³ The agency’s involvement in IDP crises marked a significant shift in institutional practice.

At the same time, The Security Council also began to treat internal displacement as a matter of international concern. Two provisions are noteworthy: in Resolution 770 (1992), the Council authorized humanitarian access to blockaded areas in Bosnia and Herzegovina, citing threats to international peace and security.¹²⁴ Similarly, in Resolution 794 (1992) it approved military intervention in Somalia to ensure the delivery of aid¹²⁵. These resolutions signaled a normative shift: internal displacement, once considered a domestic issue, was now framed as a legitimate subject of international engagement¹²⁶. States were no longer seen as immune from scrutiny when they failed to protect their populations.

This shift was also evident in the reforms of the humanitarian system. In 2005, the Inter-Agency Standing Committee (IASC) introduced the cluster approach, a coordination framework designed to improve the effectiveness of humanitarian responses. It assigned specific UN agencies or organizations as leads for key sectors, such as protection, shelter, health, and camp coordination, to ensure clearer roles, stronger accountability, and better resource allocation. The model

¹²³ Ogata stressed that “any attempt to develop protection standards for the internally displaced should take care not to undermine the existing obligations of refugee law, particularly that of asylum and non-refoulement” see Sadako Ogata, *Statement at the Norwegian Government Roundtable Discussion on United Nations Human Rights Protection for Internally Displaced Persons* (5 February 1993), in *Compilation of Statements by the United Nations High Commissioner for Refugees*, UNHCR, 84

¹²⁴ United Nations Security Council, Resolution 770 (1992), UN Doc S/RES/770 (13 August 1992)

¹²⁵ United Nations Security Council, Resolution 794 (1992), UN Doc S/RES/794 (3 December 1992)

¹²⁶ These developments were mirrored by ECOWAS practice as *the 1999 Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security* authorized regional intervention in humanitarian crises, including displacement situations. see Economic Community of West African States (ECOWAS). *Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security*. Lomé, 10 December 1999.

emphasized the need for collaboration across different sectors, and engagement with both state and non-state actors, recognizing that internal displacement is often a protracted crisis requiring structured intervention.

At the same time, the visibility of internally displaced persons increased significantly. Organizations such as the Internal Displacement Monitoring Centre (IDMC) began collecting data on the causes of displacement, geographic distribution, and specific vulnerabilities. This approach helped shape policies, better allocate resources, and push for legal and institutional changes. It also highlighted the scale of the crisis: by the mid-1990s, there were twice as many internally displaced persons as refugees, showing the urgent need for international action¹²⁷.

Yet despite these advancements, the legal status of IDPs remained uncertain: they had no dedicated treaty and no formal recognition under international law. The need for a coherent normative framework culminated in the 1992 appointment of Francis Deng as the Representative of the Secretary-General on Internally Displaced Persons. His mandate not only addressed the growing humanitarian urgency surrounding internal displacement, but also laid the groundwork for the *Guiding Principles on Internal Displacement* (GPID).

1.3. The 1992 Appointment of the UN Representative on Internally Displaced Persons and the Origins of the Special Rapporteur Mandate

The 1992 appointment of Francis Deng as the Representative of the Secretary-General on Internally Displaced Persons marked a critical moment in the global response to internal displacement. The mandate was a strategic move to establish a normative framework that could face the legal and political invisibility of internally displaced persons. As outlined in the introductory note to the *Guiding Principles on Internal Displacement*, Deng was appointed at the request of the Commission on Human Rights to examine the causes and consequences of internal displacement,

¹²⁷ Global IDP Project and Norwegian Refugee Council, *Internally Displaced People: A Global Survey*, ed. Janie Hampton (1998)

the legal status of IDPs, and mechanisms for improving their protection.¹²⁸ Deng's role, and the doctrine he developed around it, transformed the understanding of displacement. It was no longer seen merely as a humanitarian issue, but as a matter of state accountability and international responsibility.

A 2003 UN General Assembly report reviewing the first decade of Deng's role as the Representative on Internally Displaced Persons outlines a mandate based on four pillars that collectively shaped the international response to internal displacement.¹²⁹ The first pillar of Deng's mandate focused on establishing a normative framework. Central to his vision was the clarification of the rights of internally displaced persons through the integration of existing international human rights and humanitarian law into a unified set of standards. The second pillar focused on promoting institutional cooperation, as Deng recognized that fragmentation undermined the protection and assistance of iIDPs. To address this, he encouraged states to establish dedicated national mechanisms for IDP protection emphasizing that institutional responsibility should be integrated within governance structures¹³⁰. Third, conducting country missions allowed Deng to experience displacement situations firsthand, directly engaging in dialogue with governments and interacting with civil society and affected communities. These visits assisted in facilitating dialogue and advocating for concrete policy reforms. Lastly, by advancing research on displacement Deng aimed to deepen understanding of the causes, dynamics, and consequences of internal displacement. He promoted academic research and data collection to guide policy decisions and improve accountability mechanisms.

Parallel to his role as Representative, Deng's most important contribution was the idea of "sovereignty as responsibility." This new doctrine redefined sovereignty not

¹²⁸ Francis M. Deng, *Introductory Note to the Guiding Principles on Internal Displacement*, U.N. Doc. E/CN.4/1998/53/Add.2 (February 11, 1998)

¹²⁹ United Nations General Assembly, *Protection of and Assistance to Internally Displaced Persons*, U.N. Doc. A/58/393 (September 26, 2003).

¹³⁰ Uganda's *National Policy for Internally Displaced Persons* (2004) is a compelling example of Deng's vision translated into domestic legislation. Drawing directly on the *Guiding Principles on Internal Displacement*, it assigned clear responsibilities to government ministries, emphasized coordination between national and local authorities, and introduced monitoring and accountability mechanisms.

as a right to avoid outside interference, but as an obligation to protect people within a country's borders. It challenged the traditional rule of non-interference and allowed the international community to take a stronger role in defending human rights.

As a matter of fact, according to Deng, the legitimacy of a state depends on its ability and willingness to protect its citizens from harm, uphold human rights, and provide for them. If a government fails in these duties, whether through incapacity, neglect, or abuse, it loses its claim to sovereignty, and the international community has not only the right but the responsibility to intervene. This new approach emphasized that legitimate sovereignty entails both internal accountability to citizens and external accountability to the international community. Furthermore, Deng argued that the international community should act as a complementary force, stepping in when national governments are unable or unwilling to protect their populations. Deng's work on internally displaced persons helped shift the way humanitarian intervention was understood. Instead of seeing it as interference in a country's internal affairs, he argued that it should be seen as a necessary action when a government fails to protect its people. His ideas later played a key role in shaping the Responsibility to Protect (R2P) principle, which was officially introduced by the International Commission on Intervention and State Sovereignty (ICISS) in 2001 and later supported by world leaders at the UN Summit in 2005¹³¹.

Importantly, Deng's contributions also highlighted the structural challenges of enforcing this new "sovereignty as responsibility" framework. He acknowledged the double standards in international responses, where powerful states often escape scrutiny while weaker ones are disproportionately targeted. This imbalance, Deng claimed, undermines the credibility of global norms, and requires a more consistent approach to intervention. He also emphasized the role of regional organizations, particularly the African Union, in taking leadership in conflict prevention and resolution. By anchoring sovereignty in the principles of human dignity and the rule of law, Deng offered a new model that redefined state legitimacy and provided a basis for coordinated international action in response to mass human rights

¹³¹ UN General Assembly, 2005 World Summit Outcome, A/RES/60/1 (24 October 2005).

violations. His work continues to shape modern discourse on humanitarian intervention, state responsibility, and the evolving structure of global governance.

Following Deng's appointment, Walter Kälin succeeded in 2004 as the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, a position he held until 2010. Kälin adopted a more technical and legalistic approach to the mandate. His work focused on translating Deng's vision into practical legal tools, particularly by reinforcing the legal framework for IDP protection. Kälin played a key role in advancing the *Guiding Principles on Internal Displacement*, emphasizing the importance of durable solutions, such as return, resettlement, and reintegration, and encouraging governments, humanitarian agencies, and regional bodies to adopt and apply the Principles in real settings.

His annotated edition of the Principles, published through the American Society of International Law, clarified their legal basis and strengthened their credibility.¹³² By grounding the *Guiding Principles* in existing legal provisions, Kälin strengthened their status as a global standard for protecting the rights of internally displaced persons. His legal framing helped shift the perception of the Principles from non-binding soft law to a valid interpretive tool used by courts, policymakers, and humanitarian actors. Kälin's annotated edition clarified how the Principles mirror existing international human rights, humanitarian, and refugee law, offering guidance on their application in contexts such as armed conflict, natural disasters, and situations of generalized violence. This approach not only enhanced the Principles credibility but also supported their integration into peacebuilding and development strategies.

Together, Deng's leadership and Kälin's legal analysis shaped not only the content but also the normative authority of the Guiding Principles: while Deng helped establish the need for a clear framework that addressed the specific challenges of internal displacement, Kälin's annotations elevated the Principles into a widely respected tool for interpreting international law. Their combined contributions

¹³² Walter Kälin, *Guiding Principles on Internal Displacement: Annotations*, Studies in Transnational Legal Policy, No. 38 (American Society of International Law and The Brookings Institution, 2008).

reveal how the Guiding Principles didn't emerge in isolation, they were shaped through a blend of legal knowledge, humanitarian experience, and institutional support. Finalized in 1998, the Principles reflect this collaborative effort and stand as a key instrument for protecting internally displaced persons.

Building on this foundation, the mandate continued to evolve in response to changing global realities and institutional developments. In 2010, it was formally transitioned into the role of Special Rapporteur on the Human Rights of Internally Displaced Persons, under the UN Human Rights Council¹³³. This transition marked both the growing maturity of the mandate and a broader recognition of internal displacement as a human rights concern. The Special Rapporteur maintained the core functions of the original mandate (country visits, reporting, and advocacy) but was integrated into the Human Rights Council's wider framework. This move ensured continuity, preserving the mandate's core functions while fully integrating it into the UN's human rights framework.

Beyond its institutional evolution, the mandate's legacy is reflected in normative developments across regional, national, and academic areas. At a regional level, the African Union's Kampala Convention of 2009 was strongly influenced by the Guiding Principles and the normative framework shaped by Deng and Kälin. At the national level, many countries have adopted laws and policies inspired by the Principles. Courts have referenced them in decisions on displacement-related cases, and humanitarian organizations continue to use them as a standard for protection. The mandate also influenced academic discourse, contributing to legal writings on displacement, sovereignty, and the evolving understanding of human rights.¹³⁴

Ultimately, the 1992 appointment of Francis Deng and the creation of the Special Rapporteur mandate marked a turning point and a normative shift. It redefined sovereignty, placed the rights of displaced persons at the center of international

¹³³ United Nations Human Rights Council, *Mandate of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, U.N. Doc. A/HRC/RES/14/6 (July 23, 2010), adopted June 23, 2010.

¹³⁴ The UN Office for the Coordination of Humanitarian Affairs (OCHA) notes that the Guiding Principles are used as an international standard for governments and humanitarian agencies, helping shape national laws and protection strategies.

agendas, and established a legal framework that continues to guide global responses to displacement. The transition to the Special Rapporteur role in 2010 ensured the mandate's continuity, allowing it to respond to new challenges while preserving the core principles introduced by Deng and by his successors.

2. A Turning Point: The Guiding Principles on Internal Displacement of 1998

The Guiding Principles on Internal Displacement offer a structured, rights-based framework for addressing the realities of displacement within national borders.¹³⁵ They don't create new laws, but they clarify how existing international norms apply to internally displaced persons across all stages of displacement: from prevention to return or resettlement¹³⁶. Their strength lies in their clarity and adaptability: they outline what states should do, what IDPs are entitled to, and how humanitarian actors can intervene when protection fails.

This section breaks down the Principles into four phases: protection against displacement, protection during displacement, access to humanitarian assistance, and protection during return, local integration, or resettlement. Each phase reflects a different set of risks and responsibilities. However, while the Guiding Principles offer a clear and adaptable framework, their effectiveness depends on how they are implemented. As a non-binding instrument, they rely on political decisions, institutional capacity, and ongoing advocacy efforts to ensure meaningful implementation. Their relevance remains strong, especially as new drivers of displacement such as climate change, urban fragility, and slow-onset disasters challenge existing protection models. The following analysis examines the content of the Principles, their practical application, and the gaps that continue to limit their impact.

¹³⁵ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39, U.N. Doc. E/CN.4/1998/53/Add.2 (February 11, 1998).

¹³⁶ See African Commission on Human and Peoples' Rights. *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights v. Nigeria*, Communication No. 155/96 (2001) which linked forced displacement to violations of the African Charter, illustrating how existing human rights norms were applied to IDP situations even before the GPID.

2.1. Principles Relating to Protection from Displacement

The *Guiding Principles on Internal Displacement* set out from the premise that displacement is not an inevitable outcome of a crisis, but a breach of rights that demands prevention. These provisions then attempt to fill a “grey area” in prior human rights and humanitarian frameworks, where no explicit prohibition on arbitrary displacement existed.

The GPID’s Principle 5 imposes a positive obligation on states and non-state actors to prevent and avoid conditions that might lead to displacement.¹³⁷ Kälin in his Annotations on the Principles links this provision to Common Article 1 of the Geneva Conventions, which requires parties to “respect and ensure respect” for humanitarian law in all circumstances¹³⁸. The ICRC has emphasized that this duty applies in both armed conflict and peacetime, highlighting that a core function of international humanitarian law is to help prevent displacement from occurring.

Moving forward, Principle 6 defines arbitrary displacement and identifies a range of prohibited grounds such as: displacement carried out under policies of apartheid, “ethnic cleansing,” or other discriminatory measures; the use of displacement as a form of collective punishment; removals during armed conflict that are not justified by the security of civilians or by military reasons; and relocations linked to development projects¹³⁹. Erin Mooney, in her analysis of the concept of internal displacement and the development of the *Guiding Principles*¹⁴⁰, notes that this provision draws directly from Article 17 of Additional Protocol II to the Geneva Conventions, which prohibits the displacement of civilians “unless the security of

¹³⁷ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 5, “All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.”

¹³⁸ International Committee of the Red Cross (ICRC), *Geneva Conventions of 12 August 1949*, Common art. 1, 75 U.N.T.S. 31, 85, 135, 287.

¹³⁹ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 6.

¹⁴⁰ Erin Mooney, “National Responsibility and Internal Displacement: A Framework for Action,” *Forced Migration Review Supplement*, May 2003.

the civilians involved or imperative military reasons so demand”¹⁴¹. It also mirrors human rights norms prohibiting forced evictions, such as those identified in *CESCR* (Committee on Economic, Social and Cultural Rights) General Comment No. 7, which defines forced eviction as the “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”¹⁴²¹⁴³. The Internal Displacement Monitoring Centre’s legal analysis further highlights that the “overriding public interest” exception in Principle 6 should be interpreted narrowly, keeping in mind strict proportionality and necessity tests, so that displacement remains a measure of last resort. ¹⁴⁴

Where displacement cannot be avoided, Principle 7 sets out safeguards to ensure it is carried out in a lawful manner. Firstly, authorities must explore “all feasible alternatives to avoid displacement” (Principle 7(1)) ¹⁴⁵ and, where no alternatives exist, take all precautions to minimize its effects. These include seeking “the free and informed consent of those to be displaced¹⁴⁶” wherever possible, providing complete and timely information to affected communities, offering consultation, and ensuring adequate accommodation, safety, and dignity throughout the relocation process. In addition, authorities must preserve family unity and grant

¹⁴¹ International Committee of the Red Cross, *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 8 June 1977, art. 17 (Geneva: ICRC): “*The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety, and nutrition. Civilians shall not be compelled to leave their own territory for reasons connected with the conflict.*”

¹⁴² Committee on Economic, Social and Cultural Rights, *General Comment No. 7: The Right to Adequate Housing (Art. 11.1): Forced Evictions*, 20 May 1997 (Geneva: United Nations). The Committee states: “*The practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing...*”

¹⁴³ *see* European Court of Human Rights. *Doğan and Others v. Turkey*, Applications Nos. 8803–8811/02, Judgment of 29 June 2004, which found Turkey responsible for displacing Kurdish villagers and denying them return, linking forced eviction to violations of property and family life.

¹⁴⁴ Internal Displacement Monitoring Centre, *Arbitrary Displacement: Legal Standards and Interpretations* (IDMC, 2010).

¹⁴⁵ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 7(1): “*The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacement is effected in conditions of safety, and that the displaced persons are not separated from members of their family.*”

¹⁴⁶ *Ibid.* Principle 7.

special protection to vulnerable groups. As Kälin explains, these safeguards “operationalize the right to participation and the right to an adequate standard of living”¹⁴⁷ under international law, drawing on existing principles of the *International Covenant on Civil and Political Rights*¹⁴⁸ and the *International Covenant on Economic, Social and Cultural Rights*¹⁴⁹.

At the same time, Principle 8 prohibits displacement carried out in a way that violates the rights to life, dignity, liberty, or security.¹⁵⁰ While the text is brief, its scope is broad. This principle applies not only to conflict scenarios but also to disasters, meaning that even in emergencies, authorities are expected to respect the safeguards required by Principle 7, including proper accommodation, consultation, and protection for vulnerable groups. At the same time, UNHCR guidance supports this interpretation, emphasizing that these measures are essential to avoid secondary harm and maintain trust between authorities and communities.¹⁵¹

Lastly, Principle 9 acknowledges the particular vulnerability of communities whose identities are closely tied to their lands such as indigenous peoples or subsistence farmers¹⁵². It places an obligation on states to protect these groups from displacement, respecting cultural rights under Article 27 of the ICCPR¹⁵³ (minority cultural rights) and property rights as recognized in ILO Convention No. 169¹⁵⁴(indigenous and tribal peoples). This safeguard serves not

¹⁴⁷ Kälin, *Annotations to the Guiding Principles*.

¹⁴⁸ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

¹⁴⁹ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.

¹⁵⁰ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 8.

¹⁵¹ Global Protection Cluster Working Group, *Handbook for the Protection of Internally Displaced Persons* (Geneva: UNHCR, 2010).

¹⁵² United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 9: “States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.”

¹⁵³ United Nations, *International Covenant on Civil and Political Rights*, adopted 16 December 1966, entered into force 23 March 1976, 999 UNTS 171, art. 27.

¹⁵⁴ International Labour Organization, Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169), adopted 27 June 1989, entered into force 5 September 1991, 1650, UNTS 383

only as a means of cultural survival but also as protection against the permanent erosion of identity¹⁵⁵.

Taken together, Principles 5 to 9 create a preventive framework that prohibits displacement from happening unless it meets strict necessity and proportionality tests, mandates the respect of dignity, and provides safeguards in disasters and for culturally distinct groups. Persistent arbitrary displacement, driven by weak laws or political inaction, makes translating these provisions in national law essential, turning prevention into a binding obligation under human rights and humanitarian law.

2.2. Principles relating to Protection During Displacement

If Principles 5–9 are focused on preventing displacement, Principles 10–23 are about ensuring that once displacement occurs, the rights of internally displaced persons are fully respected. This section is the core of the *Guiding Principles* as it organizes preexisting human rights and humanitarian law into a coherent framework based on specific vulnerabilities of IDPs. The core message is clear: displacement does not erase rights. Going back to the preamble of the GPID, Principle 1 affirms that IDPs “shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country” and “shall not be discriminated against... on the ground that they are internally displaced.”¹⁵⁶ Principles 10 to 23 then, put this guarantee into practice addressing the full spectrum of civil, political, economic and social rights.

Principle 10 affirms the fundamental right to life, prohibiting “arbitrary deprivation of life, summary or arbitrary executions, and enforced disappearances.”¹⁵⁷ It draws

¹⁵⁵ See African Commission on Human and Peoples’ Rights. *Endorois v. Kenya*, Communication No. 276/2003 (2009), which stated that the forced removal of the Endorois people from their ancestral lands violated rights to property, culture, and development; see also Inter-American Court of Human Rights. *Yakye Axa Indigenous Community v. Paraguay*, Judgment of 17 June 2005, which ordered the restitution of ancestral lands to displaced indigenous communities, affirming that cultural survival and land rights are integral to protection against displacement.

¹⁵⁶ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 1.

¹⁵⁷ *Ibid.* Principle 10.

directly from ICCPR Article 6(1) stating “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”¹⁵⁸ and from Common Article 3 of the Geneva Conventions, which prohibits “violence to life and person, in particular murder of all kinds”¹⁵⁹ against persons taking no active part in hostilities. Kälin affirms that this guarantee must apply in all circumstances, meaning in case of armed conflict, internal unrest, or natural disasters, and it binds both state and non-state actors. Furthermore, the prohibition of Principle 10 extends to forced disappearances, reflecting developments in customary international law and instruments such as the International Convention for the Protection of All Persons from Enforced Disappearance¹⁶⁰. Importantly, Principle 10 also ties in with the duty to investigate and prosecute violations meaning that arbitrary killings, summary executions, and disappearances must be subject to prompt, impartial, and effective investigation. It affirms that the right to life is not as a passive obligation but imposes a positive duty on states to act to prevent and address violations¹⁶¹.

Principle 11 protects the dignity and the physical, mental, and moral integrity of internally displaced persons, prohibiting “*torture, cruel, inhuman, or degrading treatment or punishment, rape, and other forms of gender-based violence, as well as any form of torture or forced labour*”¹⁶². The provision mirrors well established international norms such as Article 7 of the ICCPR¹⁶³, the Convention against

¹⁵⁸ United Nations, *International Covenant on Civil and Political Rights*, adopted 16 December 1966, entered into force 23 March 1976, 999 UNTS 171, art. 6(1).

¹⁵⁹ Geneva Conventions of 12 August 1949, Common Article 3(1)(a).

¹⁶⁰ United Nations, *International Convention for the Protection of All Persons from Enforced Disappearance*, 20 December 2006, 2716 UNTS 3, arts. 1–2.

¹⁶¹ see African Commission on Human and Peoples’ Rights. *Sudan Human Rights Organisation & Centre on Housing Rights and Evictions v. Sudan*, Communications Nos. 279/03 and 296/05 (2009), which held Sudan responsible for mass killings and displacement in Darfur, affirming the right to life and the duty to protect civilians.

¹⁶² United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 11.

¹⁶³ United Nations, *International Covenant on Civil and Political Rights*, adopted 16 December 1966, entered into force 23 March 1976, 999 UNTS 171, art. 7: ““No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment””.

Torture (CAT)¹⁶⁴, Articles 2 and 5 of CEDAW¹⁶⁵, and Article 4(2)(a) and (e) of Additional Protocol II to the Geneva Conventions¹⁶⁶, which prohibits acts that harm a person’s life, health, or dignity. This includes acts like torture, cruel treatment, rape, and other forms of abuse or humiliation¹⁶⁷. The scope of the provision is deliberately broad, covering not only physical harm but also psychological abuse and violations of personal dignity, recognizing that displacement often heightens exposure to such risks. It’s important to note that the explicit reference to sexual violence was a deliberate response to patterns observed during the conflicts of the 1990s, particularly in Bosnia and Rwanda, where displacement sites frequently exposed women and girls to increased risks of violence¹⁶⁸. The principle once again establishes positive obligations: authorities must take effective measures to prevent abuses, protect those at heightened risk, and ensure accountability. In practice, this means that safeguarding the integrity of IDPs requires more than just avoiding abuse, as it demands creating conditions in which such abuse cannot happen, through secure camp design, gender-sensitive services, and effective monitoring mechanisms.

Principle 12 recognizes that internally displaced persons have the right to freedom and personal safety. It forbids arrest or detention without legal justification and insists that any restriction of liberty must be carried out with respect and humane treatment and legal standards. This protection draws, once again, from the ICCPR, particularly Articles 9 and 10 which safeguard against arbitrary detention, require information on charges, and respect for the dignity of detained persons. In situations

¹⁶⁴ United Nations, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, 1465 UNTS 85, arts. 1–2.

¹⁶⁵ United Nations, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, 1249 UNTS 13, arts. 2, 5.

¹⁶⁶ United Nations, *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 8 June 1977, 1125 UNTS 609, art. 4(2)(a), (e).

¹⁶⁷ *see* International Criminal Tribunal for Rwanda. *Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgment of 2 September 1998, which recognized rape and sexual violence during displacement as constituting acts of genocide and crimes against humanity, highlighting the heightened risks faced by displaced women and girls.

¹⁶⁸ on the deliberate inclusion of sexual violence in the Guiding Principles *see* 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).

of armed conflict¹⁶⁹. These rights are reinforced by international humanitarian law, which prohibits arbitrary deprivation of liberty and prescribes humane treatment for all civilians and persons *hors de combat*¹⁷⁰. The Guiding Principles extend these protections to all internally displaced persons, regardless of the cause of displacement, and once again bind both state and non-state actors in line with customary international law.

Transitioning to the protection of civil and political rights, Principle 13 prohibits the recruitment of internally displaced persons into armed forces or armed groups, with particular attention to those under the age of 18¹⁷¹. This aligns with the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC)¹⁷², which raises the minimum age for direct participation in hostilities and for compulsory recruitment. It also parallels Article 38 of the CRC¹⁷³ and relevant provisions of Additional Protocols I and II to the Geneva Conventions, which prohibit the recruitment and use of children in hostilities¹⁷⁴. Kälin's legal analysis emphasizes that in situations of displacement, the risk of child recruitment rises exponentially. The process of flight destroys the protective structures that protect children: family networks are fractured, communities are disrupted, and schools, often a last line of defense, cease function. Furthermore, the proximity of armed actors to camps and host communities increases opportunities to recruit children, using coercion, manipulation, or taking advantage of their need for food or safety. Unaccompanied and separated children face extreme danger. Without trusted adults to protect and advocate for them they are more visible to recruiters and less able to resist pressure. Documented cases show recruitment occurring in displacement contexts around the world. For

¹⁶⁹ United Nations, *International Covenant on Civil and Political Rights*, adopted 16 December 1966, entered into force 23 March 1976, 999 UNTS 171, arts. 9-10.

¹⁷⁰ Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, art. 3(1), August 12, 1949, 75 U.N.T.S. 287.

¹⁷¹ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 13.

¹⁷² United Nations General Assembly. *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*. Adopted May 25, 2000, entered into force February 12, 2002. United Nations Treaty Series, vol. 2173.

¹⁷³ United Nations General Assembly, *Convention on the Rights of the Child*, adopted November 20, 1989, entered into force September 2, 1990, 1577 U.N.T.S. 3, art. 38.

¹⁷⁴ International Committee of the Red Cross. "Rule 136. Recruitment of Child Soldiers." *Customary IHL Database*.

instance, in Syria, the UN Secretary-General reported that in 2022 alone, 1,696 children (1,593 boys and 103 girls) were recruited and used by armed forces or groups, including in IDP camps such as Al-Hol and Roj, with some as young as 14¹⁷⁵. In South Sudan, UNICEF and Watchlist on Children and Armed Conflict have documented organized recruitment operations in and around displacement sites, where armed actors exploit food shortages and the lack of access to education¹⁷⁶. Similarly, in the Democratic Republic of the Congo, displacement camps located near areas controlled by armed actors have repeatedly been identified as recruitment centers, where children are forced into armed service, labour, or sexual exploitation¹⁷⁷. The combination of heightened vulnerabilities and close proximity to armed actors means strong prevention measures are indispensable¹⁷⁸.

Principle 14 guarantees internally displaced persons the right to freedom of movement and to choose their place of residence, subject only to restrictions that are lawful, necessary, and proportionate.¹⁷⁹ The provision draws from Article 12 of the ICCPR, enabling IDPs to reach essential services and safe environments¹⁸⁰. Movement restrictions must never be used as a form of punishment, or control over displaced populations, and any limitation must meet strict tests of legality; furthermore, the provision is fundamental in protecting against arbitrary confinement in camps and forced relocation to unsafe areas.¹⁸¹

¹⁷⁵ United Nations. *Children and Armed Conflict: Report of the Secretary-General*. A/77/895–S/2023/363. United Nations, June 5, 2023.

¹⁷⁶ Watchlist on Children and Armed Conflict. *South Sudan*. Watchlist, 2025.

¹⁷⁷ Office of the Special Representative of the Secretary-General for Children and Armed Conflict. *Democratic Republic of the Congo: Thousands of Children Face Escalating Violence and Exploitation Amid Intensifying Conflict*. United Nations, November 21, 2024.

¹⁷⁸ see African Committee of Experts on the Rights and Welfare of the Child. *Decision on the Communication concerning Children of Northern Uganda*, No. 001/Com/001/2005 (2005), which condemned the recruitment of children by armed groups and emphasized state obligations to protect displaced children from forced conscription.

¹⁷⁹ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 14.

¹⁸⁰ United Nations, *International Covenant on Civil and Political Rights*, adopted 16 December 1966, entered into force 23 March 1976, 999 UNTS 171, art. 12.

¹⁸¹ ¹ In Ukraine, internally displaced persons in eastern areas (Donetska, Luhanska, Kharkivska, Zaporizka) have faced bureaucratic barriers to registering their residence in host communities. Similar challenges have been reported in the South Caucasus (including in Georgia); these obstacles have limited access to employment, social insurance, and state benefits. See Nataliia Reznikova and Volodymyr Panchenko, *Internal Displacement in Ukraine: The Scale and Management Challenges in Times of Uncertainty* (International Centre for Migration Policy Development, 2022).

Similarly, Principle 15 affirms the right of IDPs to seek safety in another part of their own country, to leave their country, and to seek refuge abroad¹⁸². While asylum is governed by international refugee law, this principle underscores that displacement within national borders does not extinguish the right to cross an international border if necessary for protection. It also makes clear that internal relocation must be voluntary and carried out in conditions of safety and dignity. Together, Principle 14 and 15, ensure that IDPs maintain the full spectrum of movement rights recognized under international law.

Turning to the next set of provisions, Principles 16 to 19 address the protection of family unity, the right to documentation, and the fulfilment of essential economic and social rights for internally displaced persons. Firstly, Principle 16 affirms the right of families to remain together and to know the fate of missing relatives¹⁸³. The clause places a positive duty on authorities to trace and reunite separated family members¹⁸⁴. In the same vein, Principle 17 reinforces the provision by prohibiting the separation of families especially when children are involved, aligning with the Convention on the Rights of the Child and reinforcing the idea that even in emergencies, the rights of children are absolute¹⁸⁵¹⁸⁶.

Principle 18 shifts the focus from survival to the fulfilment of essential needs affirming that internally displaced persons are entitled to an adequate standard of living, including satisfactory food, water, shelter, clothing, and medical care, referencing rights listed in ICESCR Articles 11 and 12¹⁸⁷ and in humanitarian law norms on civilian relief¹⁸⁸. This principle is fundamental in reframing assistance not

¹⁸² United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 15.

¹⁸³ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 16.

¹⁸⁴ *see* European Court of Human Rights. *Cyprus v. Turkey*, Application No. 25781/94, Judgment of 10 May 2001, which held Turkey responsible for failing to investigate on missing persons from the 1974 conflict, underscoring the right of families to know the fate of relatives.

¹⁸⁵ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 17.

¹⁸⁶ *see* Inter-American Court of Human Rights. *Mapiripán Massacre v. Colombia*, Judgment of 15 September 2005, which emphasized state's duty to protect family unity and the rights of children in displacement contexts.

¹⁸⁷ *International Covenant on Economic, Social and Cultural Rights*, 993 U.N.T.S. 3.

¹⁸⁸ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 18.

as an act of charity but as a binding legal obligation, empowering displaced persons to claim their rights and holding authorities accountable for meeting them¹⁸⁹.

Finally, Principle 19 extends these guarantees to medical and psychological care that is to be provided as fast as possible, focusing on those with heightened vulnerabilities: women, survivors of trauma, persons with disabilities, and older persons.¹⁹⁰ The principle reflects the ICESCR's non-discrimination clause in Article 2(2) stating that the rights of the convention shall be respected without discrimination of any kind¹⁹¹. The Guiding Principles thus recognize that displacement intensifies existing inequalities, requiring a rights-based response that addresses these differences directly¹⁹².

Building on these provisions, Principles 20 to 23 reinforce the principle of substantive equality by addressing legal status, the protection of property, and the preservation of full civic and cultural participation for displaced communities. Case in point, Principle 20 affirms that internally displaced persons have the right to recognition as persons before the law, requiring authorities to issue or replace personal documentation without imposing unreasonable conditions¹⁹³¹⁹⁴. This obligation is critical because the loss, destruction, or confiscation of identity papers is a common consequence of displacement. Without such documentation, IDPs may be unable to access essential public services, reclaim property, register births or

¹⁸⁹ see African Commission on Human and Peoples' Rights. *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights v. Nigeria*, Communication No. 155/96 (2001), which found Nigeria in violation of the rights to health, housing, and food of the Ogoni people, affirming that those are binding obligations, not acts of charity.

¹⁹⁰ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 19.

¹⁹¹ *International Covenant on Economic, Social and Cultural Rights*, 993 U.N.T.S. 3. art. 2(2)

¹⁹² see Inter-American Court of Human Rights. *Yakye Axa Indigenous Community v. Paraguay*, Judgment of 17 June 2005, which ordered Paraguay to provide food, health services, and medical care to displaced indigenous communities, recognizing the heightened vulnerabilities of displaced groups.

¹⁹³ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 20.

¹⁹⁴ see European Court of Human Rights. *Kurić and Others v. Slovenia*, Application No. 26828/06, Judgment of 26 June 2012, where the Court found that the "erasure" of residents after independence violated the right to legal personality and access to services, underscoring the importance of documentation for displaced persons.

marriages, vote, or exercise other civil, political, economic, and social rights. International human rights law codifies this guarantee in Article 16 of the ICCPR¹⁹⁵, which recognizes the right of every person to be acknowledged as a person before the law. The principle also matches Article 6 of the Universal Declaration of Human Rights¹⁹⁶, which recognizes the right to legal personality everywhere. In practice, the clause, supported by findings such as those in the Norwegian Refugee Council's *Legal Identity in Forced Displacement Contexts* report¹⁹⁷, has been applied in post-conflict settings to support the creation of mobile registration units, simplified procedures for replacing lost documents, and the recognition of alternative forms of proof when official documentation has been lost. These measures are not just bureaucracy as they are essential to restoring the legal identity, dignity, and agency of displaced persons, and to enabling their reintegration into civic life.

Along similar lines, Principle prohibits the arbitrary deprivation of property and possessions, including pillage, destruction, or confiscation, except where required by law and consistent with international norms 21¹⁹⁸¹⁹⁹. Kälin, in his annotations of the Principles, links this safeguard to Article 14 of *Additional Protocol II* to the Geneva Conventions²⁰⁰, which protects civilian objects indispensable to survival, as well as to human rights guarantees of property under Article 17 of the *Universal Declaration of Human Rights*²⁰¹.

¹⁹⁵ United Nations, *International Covenant on Civil and Political Rights*, adopted 16 December 1966, entered into force 23 March 1976, 999 UNTS 171, art. 16.

¹⁹⁶ United Nations General Assembly. *Universal Declaration of Human Rights*. Adopted December 10, 1948. art. 6: “Everyone has the right to recognition everywhere as a person before the law”.

¹⁹⁷ Norwegian Refugee Council. *Legal Identity in Forced Displacement Contexts*. Norwegian Refugee Council, 2020

¹⁹⁸ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 21.

¹⁹⁹ see European Court of Human Rights. *Loizidou v. Turkey*, Application No. 15318/89, Judgment of 18 December 1996, which found that denial of access to homes and property of displaced persons in Northern Cyprus violated property rights, establishing a key precedent for housing, land, and property restitution.

²⁰⁰ International Committee of the Red Cross. *Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 8 June 1977. 1125 UNTS 609. art. 14.

²⁰¹ United Nations General Assembly, *Universal Declaration of Human Rights*, adopted 10 December 1948, G.A. Res. 217 A (III), U.N. Doc. A/810, art. 17: “Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property”.

Principle 22 contains a non-exhaustive list of rights that IDPs retain during displacement, including freedoms of thought, conscience, religion, opinion, expression, association, and participation in public affairs.²⁰² It underscores, once again, that displacement does not suspend basic human rights, drawing on the ICCPR, the *ICESCR* and other core human rights treaties.

Finally, Principle 23 guarantees the right to education for IDPs, with particular attention to the needs of children and women, calling for schooling that is not only accessible but also respectful of their cultural identity and language. In doing so, the principle reflects and reinforces the obligations set out in Article 13 of the *ICESCR*²⁰³ and Articles 28–29 of the Convention on the Rights of the Child (CRC), which require education to be accessible (physically and economically within reach), acceptable (of good quality), and adaptable (responsive to the needs of learners). These standards apply equally in times of stability and in situations of emergency or displacement, affirming that crises do not diminish the right to education^{204 205}.

Kälin’s analysis shows that most of these principles reflect customary international law, binding on all parties to a conflict. Even in peacetime, they are grounded in human rights treaties to which most states are party. Furthermore, this section of the Principles focusing on Protection during displacement serves as a “protection checklist” for humanitarian actors, ensuring that assistance programmes can follow this “list” to address the full spectrum of rights.

²⁰² United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 22.

²⁰³ *International Covenant on Economic, Social and Cultural Rights*, 993 U.N.T.S. 3.

²⁰⁴ United Nations General Assembly, *Convention on the Rights of the Child*, adopted November 20, 1989, entered into force September 2, 1990, 1577 U.N.T.S. 3,

²⁰⁵ *see* ECOWAS Community Court of Justice. *SERAP v. Nigeria*, ECW/CCJ/APP/08/08, Judgment of 27 October 2009, which recognized that that education is a binding obligation even in displacement contexts.

2.3. Principles Relating to Humanitarian Assistance

Building on the preceding principles that safeguard the rights, dignity, and protection of internally displaced persons, section IV of the Guiding principles, namely Principles 24 to 27, establishes the framework governing the delivery of humanitarian aid. The principles clarify both the primary duty of national authorities in satisfying the essential needs of IDPs, and the complementary role of humanitarian actors when states are unable or unwilling to meet those needs. Drawing on binding norms from international humanitarian and human rights law, these provisions impose standards of impartiality, non-discrimination, as well as ensuring that humanitarian personnel and supplies can reach affected communities.

To begin with, Principle 24 affirms that humanitarian assistance to internally displaced persons must be delivered respecting the principles of humanity and impartiality, and without discrimination of any kind.²⁰⁶ These standards rooted in international humanitarian law and reflected in UN General Assembly Resolution 46/182 (on strengthening the provision of humanitarian aid in the UN system)²⁰⁷, require that aid be delivered solely on the basis of need, free from political, ethnic, religious, or other influences. Parallely, the Principle prohibits the diversion of relief, particularly for political or military purposes, a safeguard designed to ensure that resources reach affected communities without manipulation or obstruction²⁰⁸. As Kälin observes in his *Annotations on the Guiding Principles*, these requirements are both moral and legal duties, protecting the survival and dignity of IDPs while ensuring humanitarian aid remains independent and effective, without outside interference.

Principle 25 affirms that national authorities bear the primary duty and responsibility to provide humanitarian assistance to IDPs within their

²⁰⁶ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 24.

²⁰⁷ United Nations General Assembly. *Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations*. A/RES/46/182 (19 December 1991).

²⁰⁸ Since the early 1990s, acting under Chapter VII of the UN Charter, the UN Security Council has repeatedly asked authorities to grant immediate humanitarian access to all those in need, while reaffirming the sovereignty and political independence of the states concerned (see, e.g. UNSC Res. 688 (1991); Res. 770 (1992)).

jurisdiction²⁰⁹. As Kälin notes in his *Annotations*, this provision draws from the sovereignty-as-responsibility doctrine, linking it to states obligations under international human rights law to ensure the survival, dignity, and well-being of all those under their control. Where national authorities are unable or unwilling to meet their obligation, impartial international humanitarian organizations may offer their services in supporting the displaced. This provision, grounded in Common Article 3 of the Geneva Conventions and Article 18 of Additional Protocol II, affirms the right of neutral humanitarian bodies to provide assistance in situations of armed conflict²¹⁰. These assistance operations are not an intrusion upon sovereignty, nor do they constitute interference in its internal affairs.

While Principle 25 addresses access to humanitarian assistance, Principle 26 safeguards the people and infrastructure that make that access real as it prohibits the diversion, obstruction, or withholding of humanitarian relief²¹¹. This prohibition is grounded in international provisions such as Article 70 of Additional Protocol I²¹² and Rule 55 of the ICRC's *Customary IHL Study*²¹³, which require parties to armed conflict to allow and facilitate rapid passage of humanitarian relief. Furthermore, The UN Office for the Coordination of Humanitarian Affairs (OCHA) has stressed that obstruction of aid can amount to a violation of the right to life under Article 6 of the ICCPR, particularly when it results in starvation or preventable deaths²¹⁴. Humanitarian workers, along with the vehicles, aircraft, ships, warehouses and relief goods they transport, must be respected and protected at all times and they must never be attacked or subjected to violence. If the people

²⁰⁹ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 25.

²¹⁰ *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*. 1949. 75 U.N.T.S. 31. art. 3(2): "[a]n impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict."

²¹¹ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 26.

²¹² International Committee of the Red Cross. *Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, 8 June 1977, Article 70 – Relief Actions. ICRC, 1977.

²¹³ International Committee of the Red Cross. *Customary International Humanitarian Law, Volume I: Rules*. Edited by Jean-Marie Henckaerts and Louise Doswald-Beck. Cambridge University Press, 2005. Rule 55, "Access for Humanitarian Relief to Civilians in Need."

²¹⁴ UN Human Rights Committee, *General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life*, CCPR/C/GC/36 (30 October 2018).

and supplies that make relief possible are not kept safe, the right to assistance becomes meaningless²¹⁵.

Finally, Principle 27 emphasizes that humanitarian aid must be accompanied by the protection of the rights and dignity of internally displaced persons. Humanitarian workers are expected to follow established international standards and codes of conduct, ensuring their work is impartial, accountable, and respectful.²¹⁶

Taken together, Principles 24 to 27 establish a comprehensive framework for humanitarian assistance. These provisions reinforce the duty of states to facilitate humanitarian action, ensuring that relief reaches affected populations swiftly, safely, and without political interference. The principles in this section then attempt to close the gap between the right to receive assistance and the concrete means of delivering it.

2.4. Principles relating to Return, Resettlement, and Reintegration

Section V of the Guiding Principles, meaning Principles 28 to 30, addresses the protection of internally displaced persons in the context of durable solutions, whether through voluntary return to their place of origin, local integration in the area of displacement, or resettlement somewhere else in the country. These provisions recognize that displacement does not end the moment people return to their homes or settle permanently, but that protection and assistance remain necessary until they can exercise their rights fully and without discrimination.

Principle 28 affirms that national authorities have the duty to establish conditions and provide the means for IDPs to return voluntarily, in safety and with dignity, or to integrate locally or resettle elsewhere in the country²¹⁷. The emphasis on voluntary return reflects existing human rights norms prohibiting forced return,

²¹⁵ *see* Inter-American Court of Human Rights. *Ituango Massacres v. Colombia*, Judgment of 1 July 2006, which found that obstruction of humanitarian aid and attacks on relief operations violated the right to life and humanitarian law obligations.

²¹⁶ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 27.

²¹⁷ *Ibid.* Principle 28.

while the requirements of safety and dignity mirror standards under international humanitarian law and refugee law. As a matter of fact, citing the ICRC, IDPs have the right to “return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist²¹⁸”. On the same line, the UN Security Council has oftentimes called on the international community to facilitate return, and on some occasions, it has explicitly recognized and affirmed the right of such persons to return to their homes²¹⁹.

Principle 29 sets out the rights of IDPs once return, local integration, or resettlement have happened²²⁰. While paragraph 1 establishes that they must not face discrimination in the enjoyment of any rights, paragraph 2 affirms their right to recover property and possessions left behind or lost during displacement, or to receive appropriate compensation when restitution is not possible²²¹. Kälin links this guarantee to international instruments, such as Article 17 of the *Universal Declaration of Human Rights*, which protects against arbitrary deprivation of property. These obligations are reinforced by soft-law instruments, most notably the *Pinheiro Principles on Housing and Property Restitution*²²², which turn human rights principles into practical guidelines for post displacement situations. Adopted in 2005 by the UN Sub-Commission on the Promotion and Protection of Human Rights, the Pinheiro Principles establish a framework for the restitution of housing, land, and property to those displaced by conflict or disaster. They affirm, in Principle 2.1, that “*all refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily*

²¹⁸ International Committee of the Red Cross. *Customary International Humanitarian Law, Volume I: Rules*. Edited by Jean-Marie Henckaerts and Louise Doswald-Beck. Cambridge University Press, 2005. Rule 132, “Return of Displaced Persons.”

²¹⁹ Similarly, the UN General Assembly has reaffirmed “*the right of all persons displaced as a result of the June 1967 and subsequent hostilities to return to their homes or former places of residence in the territories occupied by Israel since 1967*” (UNGA Res. 51/126, 13 December 1996).

²²⁰ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 29.

²²¹ *see* European Court of Human Rights. *Chiragov and Others v. Armenia*, Application No. 13216/05, Judgment of 16 June 2015, which found that denial of access to homes and property of displaced Azerbaijani villagers violated property rights, reinforcing the principle of restitution or compensation.

²²² United Nations Sub-Commission on the Promotion and Protection of Human Rights. *Principles on Housing and Property Restitution for Refugees and Displaced Persons* (“Pinheiro Principles”). United Nations, 2005.

or unlawfully deprived²²³” and, in Principle 2.2, that states must “*demonstrably prioritize the right to restitution as the preferred remedy for displacement*”²²⁴, recognizing it as a key element of the right to return and an essential condition for restoring dignity. They also give clear guidance on what this right involves, what states must do, and the safeguards needed to make it work such as accessible claims mechanisms, protection from secondary occupation, and enforcement of decisions. As Kälin observes, these guidelines matter in relation to Principle 29 because they give clear, practical steps for helping people get their property back after displacement, even in complicated recovery situations. They turn the principle into real actions people can use.

Finally, Principle 30 brings the Guiding Principles to a close by focusing one more time on practical action²²⁵. It calls on all authorities to give humanitarian organizations quick access to help displaced people return, resettle, and rebuild their lives. This shows that legal recognition alone isn’t enough: real protection depends on access, coordination, and political commitment²²⁶.

Taken together, Principles 28–30 define durable solutions, requiring that internally displaced persons enjoy equal treatment under the law in their chosen place of settlement. In doing so, they make clear that displacement does not end with physical relocation, but only with the full restoration of rights and the conditions necessary for a dignified life. Having outlined the content of these provisions, it is now essential to examine their practical relevance and the limitations that prevent their full implementation.

2.5. Relevance and Weaknesses of the Guiding Principles

When the Guiding Principles on Internal Displacement were presented to the UN Commission on Human Rights in 1998, they marked the first comprehensive

²²³ Ibid. Principle 2(1).

²²⁴ Ibid. Principle 2(2).

²²⁵ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 30.

²²⁶ See *UN General Assembly, Guiding Principles on Humanitarian Assistance* (Resolution 46/182, 1991), which emphasizes that humanitarian organizations must be granted rapid and unimpeded access to affected populations, a standard directly mirrored in Principle 30.

international standard dedicated exclusively to the protection of internally displaced persons. Roberta Cohen, in her 2004 analysis of the Principles, describes this development as an “innovation in international standard-setting”,²²⁷ not because the Guiding Principles created new rights, but because they compiled provisions across human rights, humanitarian, and refugee law into a coherent and accessible framework.

The Guiding Principles have remained relevant by functioning both as a source of normative guidance and as a practical instrument. They transformed a complex body of law into a set of clear, consolidated guidelines easily understood by policymakers and those implementing them. Their language has influenced domestic legislation and national policies all over the world, serving as proof of their legislative and policy relevance. At the regional level, their influence is most clear in the African Union’s Kampala Convention, which codified many of the Principles’ key provisions into binding obligations. In practical application, they continue to shape humanitarian action: UN agencies, the ICRC, and NGOs use them as reference points in protection strategies, needs assessments, and advocacy, with the UNHCR’s *Handbook for the Protection of Internally Displaced Persons* translating the principles into concrete steps to use in the field²²⁸.

A further strength lies in their adaptability. Although they were originally conceived to respond to conflict induced displacement, their scope has broadened over time to include a varied set of circumstances such as natural disasters, relocations linked to development projects and climate driven migration. The capacity to evolve beyond their original framework has encouraged widespread adoption by multiple actors: humanitarian agencies reference them in advocacy; courts cite them in legal reasoning; and civil society uses them to measure state compliance. The GPID thus, have become a common language of protection, even in contexts where binding legal instruments do not exist.

²²⁷ Roberta Cohen, “The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting,” *Global Governance* 10, no. 4 (2004).

²²⁸ Global Protection Cluster Working Group, *Handbook for the Protection of Internally Displaced Persons* (UNHCR, 2010).

However, their design as soft law also limits their impact and their capacity to protect. Moral authority is not the same as legal enforceability, and as Cohen and Kälin emphasize, their effectiveness is often dependent on the political will of states. When authorities are directly involved in causing displacement, or place sovereignty ahead of humanitarian duty, the GPID risks being ignored with no consequences, weakening their capacity to protect IDPs precisely when it is most urgent. This structural weakness is deepened by constant gaps in implementation. As Cohen and Bradley note, in their reflections marking the GPID’s twentieth anniversary in *Forced Migration Review*²²⁹, there is a recurring problem of policies that replicate the principles but often remain ineffective due to limited capacity, lack of funding, or inadequate institutional coordination. Even well-structured laws can fail if local actors lack training, if administrative mandates are weak, or if safe access to displaced communities is not possible.

There are also normative blind spots. In their 2025 analysis for *Researching Internal Displacement*, Cantor and Sánchez-Mojica²³⁰, highlight several areas insufficiently addressed by the GPID, such as slow-onset environmental change, the complex relationship between internal displacement and cross-border migration, and the challenges of urban displacement, which currently represent the largest portion of global IDPs. Furthermore, provisions addressing the responsibilities of non-state actors are limited: the Guiding Principles acknowledge that armed groups may control territory and therefore have obligations under international law but establish no mechanism to ensure their compliance. In “asymmetric conflicts”, where such actors govern large civilian populations, this gap can create a dangerous protection deficit.

However, the Guiding Principles greatest vulnerability lies in the fact that their implementation ultimately depends on whether states chose to apply them or not, and in practice, the political reception of the GPID has never been uniform. Some

²²⁹ Roberta Cohen and Megan Bradley, “Twenty Years of the Guiding Principles on Internal Displacement,” *Forced Migration Review*, no. 59 (October 2018).

²³⁰ David Cantor and Beatriz Sánchez-Mojica, *Coherence across Internal Displacement Frameworks: Is it Time to Update the “Guiding Principles”?* (Researching Internal Displacement, May 8, 2025).

governments have embraced the principles, using them as a guide in shaping their domestic policies: for example, Uganda’s 2004 National Policy on IDPs adopted the GPID with minimal alterations, contributing directly to the language of the African Union’s Kampala Convention. More commonly, however, states have been more selective, only incorporating provisions that serve their political agendas, while ignoring those that would require more effort. In countries such as India, IDPs policies only deal with development-induced displacement, ignoring those uprooted by conflict or disaster²³¹. Similarly, both Iraq’s²³² and Sri Lanka’s²³³ IDP policies completely omit prevention measures and participation rights. At multiple points, resistance to the principles has been framed as a defense of sovereignty: in Myanmar²³⁴ authorities have pushed back against applying the GPID in conflict affected regions, presenting them as an entry point for unwelcome foreign involvement. On the same line, in Sudan²³⁵, prior to 2019, humanitarian actors who invoked the Principles to argue for access to displaced communities were accused of undermining state authority. Similar dynamics emerged at a regional level during the Kampala Convention negotiations, as a number of African states hesitated to adopt the GPID, fearing it could lead to external scrutiny.

The GPID’s legacy reflects both significant strengths and serious weaknesses. They remain the most comprehensive articulation of IDP rights, unmatched in scope and recognition. Their normative clarity, adaptability, and impact on laws and policies are major achievements, especially for a non-binding instrument. Yet their lack of enforceability means they rely on advocacy, diplomacy, and reputational pressure, tools that cannot, by themselves, ensure consistent and effective protection. The same flexibility that made the principles so successful also allows uneven

²³¹ Internal Displacement Monitoring Centre (IDMC). 2016. *Pushed Aside: Displaced for “Development” in India*. IDMC, July 14.

²³² UNHCR, “Internally Displaced People | UNHCR Iraq,” see <https://www.unhcr.org/iq/internally-displaced-people>.

²³³ Chaloka Beyani, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons: Mission to Sri Lanka*, A/HRC/26/33/Add.4 (United Nations Human Rights Council, June 5, 2014).

²³⁴ David Brenner, “Misunderstanding Myanmar through the Lens of Democracy,” *International Affairs* 100, no. 2 (March 2024).

²³⁵ HERE-Geneva, *Lost in Sudanisation? What It Means to Apply a Principled Humanitarian Approach in the Response to the Crisis in Sudan* (HERE-Geneva and Sudan INGO Forum, April 2025).

application and shifting interpretations. The priority then, is not to replace the Guiding Principles, but to strengthen and adapt them for current realities. This could include reinforcing regional instruments like the Kampala Convention, introducing independent monitoring mechanisms to hold state and non-state actors accountable, and expanding their coverage to address climate-related and slow-onset displacement more explicitly. It also means investing in the institutions, skills, and resources needed to turn guidance into concrete protection, as without trained staff, adequate funding, and clear mandates, even the most well-crafted principles risk failing. The challenge ahead is to connect the Principles theoretical authority to stronger legal, and operational frameworks so the rights they assert are not only recognized, but fully enforced.

3. Regional legislation: The African regional approach to the protection of IDPs

Having assessed the global impact and limitations of the Guiding Principles on Internal Displacement, it is worth examining how they have been applied within specific regional contexts. In Africa, the response has been extremely strong as states have moved beyond voluntary ratification to create binding legal instruments that not only incorporate the GPID but adapt them to address the continent's particular displacement dynamics. The adoption of the 2006 Protocol on the Protection and Assistance to Internally Displaced Persons within the framework of the International Conference on the Great Lakes Region, followed by the African Union's 2009 Kampala Convention, marks an important shift from soft-law to binding regional instruments. Together, these tools highlight both the opportunities and the obstacles in translating global norms into enforceable regional frameworks.

3.1. International Conference on the Great Lakes Region (ICGLR) – 2006 Protocol on the Protection and Assistance to Internally Displaced Persons

The Protocol on the Protection and Assistance to Internally Displaced Persons was adopted on 30 November 2006 in Nairobi, Kenya, by the member states of the International Conference on the Great Lakes Region (ICGLR) as part of the broader

Pact on Security, Stability and Development in the Great Lakes Region²³⁶. This Pact is a legally binding treaty framework, and it was developed in response to protracted armed conflicts, mass displacement, and governance crises that had affected the Great Lakes region for decades. The Protocol then emerged from a recognition that internal displacement was not merely a humanitarian concern but a structural challenge to peace, security, and development across multiple states. The ICGLR itself was established in the early 2000s with the support of the African Union and the United Nations Security Council²³⁷. Its creation marked a shift toward coordinated regional responses to cross-border crises, such as displacement, conflict, and underdevelopment, which were too interconnected to be addressed by national efforts.

Firstly, The Dar-es-Salaam Declaration on Peace, Security, Democracy and Development of 2004 set the political and normative basis for the Protocol, as Article 58 of the Declaration explicitly required member states to “respect and use the Guiding Principles on Internal Displacement” and to harmonize national legislation accordingly.²³⁸

By 2006, the humanitarian and political need for action was evident. Countries such as The Democratic Republic of the Congo (DRC), Burundi, Uganda, and Sudan were dealing with large-scale internal displacement caused by armed conflict, human rights violations, and natural disasters. Alongside internal displacement, cross-border movements of displaced persons were frequent, and the lack of a consistent regional legal framework meant responses were fragmented and inconsistent. The Protocol was thus designed to fill a normative gap, establishing the first binding regional, or better inter-regional, instrument in Africa to explicitly require states to adopt and implement the GPID in their domestic legal systems. This normative turning point was significant for two main reasons. First, it signaled

²³⁶ International Conference on the Great Lakes Region. *Protocol on the Protection and Assistance to Internally Displaced Persons*. Adopted 30 November 2006, Nairobi, Kenya, as part of the *Pact on Security, Stability and Development in the Great Lakes Region*.

²³⁷ United Nations Security Council, *Resolution 1291 (2000)*, S/RES/1291 (24 February 2000); United Nations Security Council, *Resolution 1304 (2000)*, S/RES/1304 (16 June 2000).

²³⁸ International Conference on the Great Lakes Region. *Dar-es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes Region*. Adopted 20 November 2004, Dar es Salaam, Tanzania.

there was a shared understanding that internal displacement was not merely an internal affair, but a shared challenge requiring coordinated legal and policy responses. Second, it demonstrated that African states were willing to take initiative in shaping displacement norms without relying exclusively on global frameworks. In this sense, the Protocol anticipated the later African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) of 2009, which would expand the scope of binding obligations.

The 2006 Protocol mirrors the GPID's definition of IDPs, as it applies to those forced to flee due to armed conflict, generalized violence, human rights violations and natural or human-made disasters, as well as those affected by large scale development projects. The inclusion of the latter is especially significant for the realities of the region, and it acknowledges that economic initiatives, such as infrastructure or resource extraction projects, can be as disruptive to communities as war or disaster, and therefore require appropriate safeguards. The objectives of the Protocol, articulated in Article 2²³⁹, mirror the GPID but are tailored to the specific realities of the Great Lakes region. They include creating a legal framework to incorporate the GPID into national law, guaranteeing the physical safety and material needs of IDPs, and establishing a solid legal foundation for long term measures to prevent displacement by addressing its root causes. These objectives then reflect a dual focus: immediate humanitarian protection and long-term structural prevention.

Furthermore, it imposes a range of obligations on member states²⁴⁰, which can be divided into three main categories: firstly, states retain the primary responsibility to protect and assist IDPs during all phases of displacement: from flight, to displacement, and return or resettlement. Governments must prevent arbitrary displacement, including that caused from development projects without proper safeguards, and must guarantee full humanitarian access to affected populations.

²³⁹ ICGLR, *Protocol on the Protection and Assistance to Internally Displaced Persons*, 30 November 2006, art. 2.

²⁴⁰ in addition to the twelve member states, the ICGLR has the following co-opted countries: Botswana, Egypt, Ethiopia, Malawi, Mozambique, Namibia and Zimbabwe. Of these countries, only Malawi has ratified the Kampala Convention.

The Protocol also mandates states to carry out needs assessments, register IDPs and maintain a national database to guide policy and resource allocation. These measures aim to make IDP protection a permanent feature of state institutions and planning, rather than occasional or improvised.

Article 4 elaborates on the scope of protection, requiring that all measures affecting IDPs comply with international human rights and humanitarian law²⁴¹. It requires specific safeguards for vulnerable groups, including women, children, pastoralist communities, persons with disabilities and families of mixed ethnicity. States must provide secure locations with adequate shelter, food, water, healthcare and must respect freedom of movement. The Protocol also requires states to facilitate family reunification and acknowledges the needs of host communities, which often face significant economic pressure when receiving displaced populations.

Perhaps most innovative is Article 5 on displacement caused by development projects²⁴². In these cases, displacement is allowed only when justified by public interest and even then, states must explore all viable alternatives and seek the free and informed consent of those affected. They are also required to provide adequate compensation, find relocation sites and allow the participation of affected persons, especially women, in the decision-making process. By codifying these safeguards, the Protocol extends human rights protection into an area often ignored by displacement law.

Article 6 focuses on domestic implementation requiring states to adopt national legislation that incorporates the GPID, as well as requiring them to use Kalin's Annotations of the Principles as a guide for interpretation²⁴³. It also requires cooperation with the UN, the African Union, and civil society organizations.

The adoption of the Protocol reflected a broadly shared regional understanding that internal displacement was not only a humanitarian concern but a fundamental security and development challenge. Framing the issue in these terms was

²⁴¹ ICGLR, *Protocol on the Protection and Assistance to Internally Displaced Persons*, 30 November 2006, art. 4.

²⁴² *Ibid.* art. 5.

²⁴³ *Ibid.* art. 6.

politically significant as it encouraged member states to view cooperation on IDP protection not as an infringement of sovereignty, but as a mutual interest essential to maintaining regional stability. By situating displacement within the broader agenda of peace, security and development, the Protocol reframed the protection of internally displaced persons as a pillar of collective security rather than a discretionary act of charity.

However, the very fact that the instrument was legally binding inevitably caused political tensions. By creating explicit standards that could be used to assess and, where necessary, criticize state practice it introduced an element of accountability that some governments did not appreciate. This has produced different levels of implementation across the region. In certain cases, notably Uganda, the Protocol served as a starting point for policy reforms, prompting the incorporation of the GPID into national frameworks and the development of institutional mechanisms. In other contexts, progress has been slower and more uneven, with states invoking capacity limitations, different policy priorities and above all, sovereignty concerns, to explain delays or partial compliance. Implementation challenges were varied as resource limitations were, and still are, a serious obstacle, particularly in maintaining accurate IDP databases and delivering consistent protection and assistance. Furthermore, ongoing conflicts in parts of the region continued to generate new displacement perpetuating the cycle of vulnerability. Although these constraints limited the scope of state implementation, they also highlighted the need for complementary action by non-state actors. From the perspective of civil society, the ICGLR Protocol was more than a legal safeguard as it became an advocacy tool with potential to influence policy. Above all, by requiring each member state to establish a National Coordination Mechanism (NCMs)²⁴⁴, it created a formal space for civil society, women's organizations, and youth groups to engage directly with government officials on displacement issues. In practice, these new actors were meant to act as bridges between affected communities and state institutions, as well as encouraging cross border collaboration between NCMs on data, policies, and

²⁴⁴see for updated data: <https://icglrdev.arxia.com/national-coordination-mechanisms/>

advocacy. The Protocol also gave NGOs tools to advocate for strong national laws and make sure IDPs have a voice in policymaking. In short, it provided a basis for holding governments accountable. In addition to that, because it was part of the Pact on Security, Stability and Development in the Great Lakes Region's broader "Programme of Action", the Protocol's impact went beyond protection alone, as was tied to efforts on land and property restitution, as well as environmental rehabilitation of former IDP sites.

In normative terms, the Protocol stood as a bridge between the Guiding Principles on Internal Displacement and the Kampala Convention, as by setting standards on prevention, protection, and durable solutions it broadened the legal and policy tools available to address displacement in complex regional settings. Its relevance extended beyond the legal provisions it established, but also in the political and conceptual shift it represented by recognizing internal displacement as both a governance challenge and a humanitarian crisis. It affirmed that regional solidarity and coordinated legal frameworks are essential to an effective response, thus becoming a fundamental reference point for regional and national humanitarian actors.

3.2. The Kampala Convention of 2009

The ICGLR Protocol was groundbreaking in several aspects as It demonstrated that states could agree to binding obligations, even on an issue as sensitive as internal displacement, which touches directly on sovereignty. It also expanded the understanding of internal displacement, recognizing that its causes extend beyond conflict and violence but also include natural disasters and development projects. This was a significant turning point: by acknowledging that displacement in Africa was not only the product of war, but also the result of poor policy choices, environmental shocks, and economic development projects that failed to protect communities.

However, its geographic reach was limited to the Great Lakes region, meaning the eleven ICGLR member states, leaving the majority of African Union members outside its legal scope. Thematically, while ahead of its time, the Protocol still left

important gaps as it did not discuss displacement caused by development projects in a detailed way and said little about climate change or disaster displacement. Furthermore, while recognizing that non-state armed groups had responsibilities, it did not elaborate to ensure accountability. Structural weaknesses were also evident: the ICGLR lacked robust compliance or monitoring mechanisms, and implementation depended almost entirely on the political will of individual governments. Finally, the Protocol suffered from limited political visibility as it remained relatively unknown outside the African Continent.

Therefore, the need to shift from a sub-regional protocol to a continental convention was evident and driven by several connected factors. First of all, normative consolidation: the 2006 Protocol had shown that the UN Guiding Principles could be transformed into binding obligations encouraging the African Union to scale up. Second was continental relevance as internal displacement was not confined to the Great Lakes. Crises in Sudan's Darfur region, Somalia, Côte d'Ivoire, and displacement in West Africa highlighted the need for a continental legal framework. Moreover, emerging displacement drivers, such as environmental degradation, demanded legal instruments capable of addressing constantly evolving scenarios. Finally, political momentum was building as the AU's human rights agenda, built on the African Charter and the 1969 OAU Refugee Convention²⁴⁵, created the right conditions for a new treaty to protect IDPs.

It was against this backdrop that the African Union launched negotiations for what would become the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, known as the Kampala Convention²⁴⁶. Adopted in Kampala, Uganda, in 2009 and entering into force in 2012, it is the first, and so far, only, legally binding regional treaty in the world dedicated to the protection and assistance of IDPs. The Convention stands out for its broad definition of internal displacement, including displacement caused by armed

²⁴⁵ Organization of African Unity. *Convention Governing the Specific Aspects of Refugee Problems in Africa*. Adopted September 10, 1969, entered into force June 20, 1974. 1001 U.N.T.S. 45.

²⁴⁶ African Union. *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)*. Adopted October 23, 2009, entered into force December 6, 2012.

conflict, generalized violence, human rights violations, as well as natural or human-made disasters, development projects, and harmful practices²⁴⁷. Furthermore, it reframes state sovereignty as a responsibility as states have the primary duty to prevent displacement, protect and assist IDPs, and facilitate durable solutions. It also imposes obligations on non-state actors, including armed groups and private corporations, recognizing their potential role in causing displacement. Special protection is mandated for vulnerable groups, women, children, the elderly, and persons with disabilities, with attention to their specific needs and rights. The Convention also addresses accountability, requiring states to criminalize acts of arbitrary displacement and to provide reparations to victims. Importantly, the Kampala Convention also establishes mechanisms for monitoring and reporting IDPs rights violations, including the Conference of States Parties, which reviews state implementation and promotes compliance.

One of the Kampala Convention's most important innovations is its focus on prevention. Mirroring the GPID, states are not simply expected to respond to displacement once it occurs; they are legally required to take action to avoid it in the first place. This means preventing arbitrary displacement in all circumstances, integrating displacement risk assessment into planning, and allowing large scale projects, both by public and private actors, to proceed only after direct consultation with affected communities²⁴⁸. Still in name of prevention, the same provisions also require states to mitigate the effects of natural disasters through the development of early-warning systems and disaster-risk-reduction strategies²⁴⁹, marking a decisive shift towards a more active risk-management strategy aimed at addressing root causes of displacement before they turn into emergencies.

When displacement does occur, the Convention establishes a series of positive obligations requiring states to protect and assist IDPs. These obligations include guaranteeing safe access to essential goods and services, such as food, water, shelter

²⁴⁷ African Union. *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)*. Adopted October 23, 2009, entered into force December 6, 2012. artt. 1(j), 1(k).

²⁴⁸ Ibid. art. 10.

²⁴⁹ Ibid. art. 3(2).

and medical care, and protecting displaced persons from violence, exploitation, and abuse, with explicit references to gender-based violence²⁵⁰. As a matter of fact, Article 9 of the convention focuses on groups with heightened vulnerabilities: women must be protected from sexual and gender-based violence and empowered to participate to decisions affecting them; children must be shielded from recruitment into armed forces and exploitation and people with disabilities and the elders must be granted equal access to aid and protection. This explicit recognition of differentiated needs is a core element of the Convention’s “rights-based approach”, ensuring that protection is tailored to the specific risks and barriers faced by different groups, rather than applied as a generalized measure.

Perhaps the most innovative development from earlier displacement frameworks is the Kampala Convention’s decision to extend binding obligations beyond states to non-state actors. By recognizing that armed groups, corporations, and other non-state actors often control areas affected by displacement in the continent, the Convention finally addresses a critical accountability gap. Building on the prevention duties in Articles 3–5 and the protection measures in Articles 6–9, it makes clear that responsibility to protect IDPs extends beyond state authorities. Article 7(2) of the Convention expressly mentions armed groups prohibiting them from engaging in arbitrary displacement, whether in the context of armed conflict or other situations of instability and unrest²⁵¹. They are also prohibited from obstructing humanitarian aid and must grant safe access to humanitarian personnel attempting to reach displaced communities. As for other non-state actors, Article 10 requires private corporations involved in development projects to respect the rights of affected communities, ensuring that economic initiatives do not undermine human security²⁵². By codifying these obligations, the Convention guarantees that the protection of displaced persons extends to all situations, regardless of who is the authority in control. To make sure that these obligations are actually enforceable, the Convention introduces strong accountability mechanisms. As a

²⁵⁰African Union. *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)*. Adopted October 23, 2009, entered into force December 6, 2012. artt. 9(2)(b),9(2)(c).

²⁵¹ Ibid. art. 7(2).

²⁵² Ibid. art. 10.

matter of fact, member states are required to criminalize acts of arbitrary displacement ensuring individual responsibility²⁵³ for those breaching the Convention, as well as providing reparations to victims through restitution, compensation, and rehabilitation²⁵⁴. In doing so, it transforms humanitarian principles into binding law, ensuring breaches have real consequences and victims have a recognized right to restitution.

To support and oversee implementation, the Convention establishes the Conference of States Parties as its principal institutional mechanism reviewing periodic reports, issuing recommendations, and facilitating cooperation. The reporting obligation is not a mere formality: it creates a structured peer review mechanism, where states can be held accountable by their other members of the Convention, thus exerting political and reputational pressure. Importantly, the Convention's monitoring framework is not confined to state actors. The *Guide for the Implementation of the Kampala Convention*²⁵⁵ explicitly encourages civil society organizations (CSOs), including IDP associations, human rights groups, and humanitarian NGOs, to contribute to the monitoring process. Civil society can submit so-called shadow reports, provide independent data, and participate in consultations, ensuring that the voices of affected communities are heard and that state reports are cross checked against independent data. This reflects the Convention's recognition that effective protection requires inclusive governance, where those most affected have a role in shaping policy. The framework is also designed to generate public visibility, stimulating national debate and media coverage, and including displacement issues into governance conversations.

The Guide also urges states to integrate climate change adaptation into national IDP policies, including early-warning systems, risk mapping, and resilience-building strategies reflecting the Convention's recognition of climate and disaster-induced

²⁵³ African Union. *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)*. Adopted October 23, 2009, entered into force December 6, 2012. art 3(1)(g).

²⁵⁴ Ibid. art. 12.

²⁵⁵ African Union Commission, *Guide for the Implementation of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)* (African Union, 2017).

displacement as a growing cause of internal displacement in Africa. It also acknowledges the phenomenon of urban displacement, which requires specific responses distinct from rural, camp-based models, including measures for housing, livelihoods, and access to services in urban areas. Finally, the Convention's obligations extend beyond emergency situations, focusing on ensuring durable solutions with civil society organizations playing a key role in monitoring that these solutions are safe, sustainable, and respectful of human rights.

Notably, the Kampala Convention has continued to evolve through follow-up initiatives. The 2016 ICRC stocktaking exercise²⁵⁶ gathered data from more than twenty African states, identifying good practices, such as improved data collection on IDPs. At the same time, it identified persistent challenges, including slow domestication of the Convention into national law, limited resources and it produced concrete recommendations for strengthening implementation. In 2017, the first Conference of States Parties in Harare adopted the Harare Plan of Action²⁵⁷, setting clear priorities and encouraging collaboration between states, CSOs, and international partners. By 2019 five additional states had ratified the Convention and the African Union issued a Model Law²⁵⁸ to guide domestic implementation. The AU's 10th Anniversary Report²⁵⁹ noted that the guide prompted several countries to adopt or draft national laws and policies aligned with the Convention, while also acknowledging that funding gaps, ongoing conflict, and disaster-induced displacement, and the need for stronger monitoring mechanisms continued to limit the full realization of its objectives.

The Kampala's Convention relevance lies not only in its innovative content, but in its capacity to influence national legal frameworks. As a matter of fact, several

²⁵⁶ International Committee of the Red Cross. *Stocktaking on the Kampala Convention: 2016 Report*. ICRC, 2016.

²⁵⁷ African Union, *Plan of Action for the Implementation of the Kampala Convention Adopted by Conference of States Parties*, Press Release No. 051/2017 (Harare, Zimbabwe, 5 April 2017).

²⁵⁸ African Union, *African Union Model Law for the Implementation of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)* (Addis Ababa, 2019).

²⁵⁹ African Union, *Report on the 10th Anniversary of the Kampala Convention* (African Union, 2019).

members of the AU implemented the provisions of the Convention into national legislation.

Kenya stands out in its approach, offering one of the clearest examples on how a state can move from ratification to meaningful implementation. Before the Convention, Kenya had struggled with mass displacement, as the 2008 post-election crisis displaced more than 600,000 people²⁶⁰. Against this backdrop, the country ratified the Kampala Convention in 2012, and adopted the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act (2012). As of today, this law remains one of the most complete national frameworks, fully signed with the provisions set out in the Kampala Convention. It employs a broad definition of internal displacement, aligned with international standards, and including movement caused by conflict, natural disasters, development projects, and generalized violence; as well as further reinforcing the right of IDPs to voluntary return, resettlement, or local integration²⁶¹. The 2012 Act also establishes the National Consultative Coordination Committee (NCCC) to oversee implementation and coordinate durable solutions²⁶².

Kenya's domestication process has also been notable for civil society involvement, reflecting the participation model established in the African Union's *Guide for the Implementation of the Kampala Convention*²⁶³. As a matter of fact, civil society organizations, including IDP associations, human rights groups, and NGOs, contributed to the drafting of the 2012 Act, and provided training for country officials on their obligations. They have also played a monitoring role, issuing independent assessments, and working directly with communities on the development of early-warning systems and disaster preparedness²⁶⁴.

²⁶⁰ Brookings Institution–University of Bern Project on Internal Displacement. *From Responsibility to Response: National Response to Internal Displacement in Kenya*. Brookings Institution, 2011.

²⁶¹ Republic of Kenya. *Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act*, No. 56 of 2012.

²⁶² Ibid.

²⁶³ African Union Commission. *Guide for the Implementation of the Kampala Convention*. African Union, 2014.

²⁶⁴ Kenya National Commission on Human Rights (KNCHR). *Displacement and Forced Evictions Programme Overview*. KNCHR, 2025.

Despite its normative strength, Kenya's framework faces several challenges. Reports from UNHCR and civil society highlight limited funding, weak institutional capacity, and inconsistent enforcement, particularly in the case of urban evictions and land-related displacement²⁶⁵. Still, Kenya's experience demonstrates how the Kampala Convention can be translated into enforceable national law, offering a model for legislative implementation across the region.

Similarly, Uganda ratified the Convention almost immediately, in 2010, and has then developed a strong national policy on displacement, despite not having a dedicated IDP law. The policy clearly establishes government responsibility, protection standards, and coordination mechanisms. However, while Uganda's framework mirrors many Kampala principles, it is still a non-binding instrument, leading to persistent gaps in implementation, accountability, and resource allocation²⁶⁶.

These case studies reveal the different paths taken by African states in implementing the Kampala Convention, while some have made strong progress, through robust domestication efforts, others are still struggling to turn commitments into real enforceable protection. These differences further highlight how IDP protection strongly depends on the strength and capacity of national bodies, as well as political will.

As of today, thanks to its binding obligations, monitoring mechanisms, and adaptability to evolving displacement dynamics, the Kampala Convention stands as a fundamental instrument that managed to transform humanitarian principle into enforceable law, thus offering a model for regional instruments worldwide. By recognizing that large-scale displacement can quickly overwhelm national capacities, the Kampala Convention promotes African solidarity by encouraging States Parties to request and accept international help when needed. It also calls for cooperation with humanitarian agencies and other countries to provide assistance

²⁶⁵ United Nations High Commissioner for Refugees (UNHCR). *UNHCR's Engagement in Situations of Internal Displacement: Progress, Challenges and the Road Ahead*. UNHCR, 2023.

²⁶⁶ Republic of Uganda. *National Policy for Internally Displaced Persons*. Office of the Prime Minister, 2004.

and encourages actors to share information and good practices. This reflects the Convention's view that displacement is not just a national issue, but a regional challenge that demands coordinated, cross-border solutions.

Together, the international and regional legal frameworks explored in this chapter, from the Guiding Principles to the Kampala Convention, provide a strong foundation for protecting internally displaced persons. But as the African experience shows, having legal norms is only the beginning. Their impact depends on the institutions and actors responsible for putting them into practice: national governments, regional bodies, UN agencies, the ICRC, and civil society. The next chapter then turns to these actors, examining in detail their mandates, capacities, and limitations, addressing how they cooperate to turn legal provisions into real protection and lasting solutions for IDPs.

CHAPTER 3

KEY ACTORS IN THE PROTECTION OF IDPs

1. The role of states in protecting IDPs — 1.1. The responsibility to protect (R2P) — 2. The Role of the United Nations and Its Institutions — 2.1. The Principal Organs of the United Nations — 2.1.1. The Security Council — 2.1.2. The General Assembly — 2.1.3. The Human Rights Council — 2.2. The Special Rapporteur on the Human Rights of IDPs — 2.2.1. Report of the Special Rapporteur on the human rights of internally displaced persons (A/70/334): Governance structures for internal displacement — 2.2.2. Report of the Special Rapporteur on the human rights of internally displaced persons (A/72/202): Enhancing the participation of internally displaced persons — 2.3. UNHCR and the Cluster Approach — 2.4. The role of the ICRC in assisting IDPs — 2.5. The Inter-Agency Standing Committee (IASC) and the 2024 IDP Protection Policy — 3. Monitoring IDPs rights and their access to justice — 3.1. The UN Human Rights Treaty Body System: Monitoring States Implementation of International Human Rights Law — 3.2. Lack of access to justice in the context of internal displacement — 3.2.1. Key International Legal Principles and Standards— 3.2.2. The role of International Organizations in Justice Reform

1. The role of states in protecting IDPs

The protection of internally displaced persons is not guaranteed by legal frameworks, in the sense that the mere existence of international or regional instruments does not automatically translate into effective protection on the ground. Each involved actor has a different mandate, capacities, and limitations, and their effectiveness depends on political will, resources, and the ability to coordinate with others.

The existence of comprehensive international and regional legal frameworks, from the United Nations Guiding Principles on Internal Displacement to the African Union's Kampala Convention, provides a strong legal basis for the protection of internally displaced persons. However, the existence of these instruments alone is not enough: turning rights into reality depends on the institutions and actors responsible for implementing them.

Under international law, states bear the primary responsibility for protecting and assisting IDPs within their territory. This reflects the broader obligation of every state to protect its population, the so-called *duty to protect*, which is firmly anchored in several areas of international law. Human right treaties, such as the ICCPR and ICESCR, impose positive obligations on states to not only respect rights, but also to take measures to fulfill those rights²⁶⁷. In situations of armed conflict, for example, international humanitarian law reinforces this principle: the Geneva Conventions and their Additional Protocols require the protection of civilians, and Article 17 of Additional Protocol II expressly prohibits arbitrary displacement and mandates authorities to provide for those displaced²⁶⁸. Jurisprudence from regional human rights courts has further reinforced the provision, calling on states to take positive steps to protect individuals. For example, in *Osman v. United Kingdom* (1998), the ECtHR stressed that Article 2 of the European Convention on Human Rights, which protects the right to life, can impose positive obligations on states. The court developed what has become known as the "Osman test": when authorities knew, or should have known, of real and immediate risks to the life of an individual they are required to take measures to prevent that risk²⁶⁹. This case is significant because it demonstrates that the duty to protect is not limited to refraining from violations, but it extends to proactive steps to safeguard individuals from

²⁶⁷ International Covenant on Civil and Political Rights, 16 December 1966, 999 U.N.T.S. 171 (entered into force 23 March 1976); International Covenant on Economic, Social and Cultural Rights, 16 December 1966, 993 U.N.T.S. 3 (entered into force 3 January 1976).

²⁶⁸ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, 1125 U.N.T.S. 609, art. 17 (entered into force 7 December 1978).

²⁶⁹ *Osman v. The United Kingdom*, no. 23452/94, 29 E.H.R.R. 245 (Eur. Ct. H.R., 28 October 1998).

foreseeable harm, a principle directly relevant to the protection of IDPs, who are often exposed to heightened risks from both state and non-state actors.

Taken together, these instruments and decisions confirm that the duty to protect is recognized across multiple sectors of international law and, for states that are parties to the relevant treaties, constitutes a binding legal obligation. In this sense, it provides the legal foundation for the state's primary responsibility toward IDPs.

This duty is rooted in human rights obligations and in the concept of *sovereignty as responsibility*, which reframes sovereignty not as a shield against external scrutiny but as an obligation to safeguard populations. However, as the ICRC notes, displacement often overwhelms national capacities, or it occurs in contexts where state authorities are unwilling or unable to act²⁷⁰. In these cases, protection depends on the engagement of a broad spectrum of actors that operate at different levels: from national governments, regional organizations, UN agencies and NGOs, to international organizations such as the International Committee of the Red Cross. Each of these actors has its own mandate, capacities and limitations, and their effectiveness depends on their ability to cooperate with each other.

This chapter examines the key institutional actors in the protection of IDPs in three parts. Paragraph One analyses the role of states, including the principle of responsibility to protect (R2P), the governance structures they establish, and mechanisms for IDP participation in policy making. Part Two turns to the United Nations system and its partners, focusing on UNHCR's leadership in the Cluster Approach, the ICRC's specific mandate under international humanitarian law, and the Inter-Agency Standing Committee's 2024 IDP Protection Policy. Part Three then addresses monitoring and accountability, analyzing the barriers to justice in displacement contexts, and the contribution of international organizations to justice sector reform.

By shifting the focus from the normative frameworks explored in the previous chapters to the institutional architecture that implements them, this chapter aims to

²⁷⁰ International Committee of the Red Cross (ICRC), *ICRC Position on Internally Displaced Persons* (ICRC, 2006), 2

highlight the operational realities of protection, those points in which law meets politics, capacity, and the lived experience of displacement.

1.1. The responsibility to protect (R2P)

The Responsibility to Protect, known as R2P, was endorsed by all UN member states at the 2005 World Summit. It is important to stress, however, that the doctrine is not a binding legal obligation under either treaty or customary international law. The World Summit Outcome Document, as General Assembly resolution, cannot be considered an international agreement in the strict legal sense. R2P is therefore best understood as a doctrine or political commitment, rather than a source of binding law. It affirms that sovereignty is not only a right but also a responsibility: every state has the duty to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity²⁷¹. In the case in which a state is unable or unwilling to do so, the international community has a role to assist, and, in extreme cases, to take collective action through the United Nations.

In practice, however, the application of R2P has been limited and contested, the most prominent case being the Libyan crisis in 2011. During Gaddafi's regime, faced with mass atrocities the Security Council acted swiftly, adopting Resolution 1970, which condemned the violence, referred the situation to the International Criminal Court, and explicitly framed Libya's crisis in terms of the state's responsibility to protect its population²⁷². Only a few weeks later, the Council adopted Resolution 1973, demanding Libyan authorities, and all member states, to take all necessary measures to protect civilians²⁷³. This was the first time the SC explicitly invoked R2P to authorize external intervention against another state, and the Resolutions were initially seen as a breakthrough. The intervention, however, soon became controversial, as the mission seemingly shifted from protecting

²⁷¹ United Nations General Assembly. *2005 World Summit Outcome*. A/RES/60/1, 24 October 2005, paras. 138–139

²⁷² United Nations Security Council, Resolution 1970, S/RES/1970 (26 February 2011).

²⁷³ United Nations Security Council, Resolution 1973, S/RES/1973 (17 March 2011), para. 3, 4.

civilians to supporting rebel forces and contributing to a regime change, arguing that R2P had been instrumentalized as a cover for interventionism²⁷⁴.

Even though R2P was not drafted with IDPs in mind, it is extremely relevant to them as internal displacement is often both a sign and a direct consequence of the four crimes R2P addresses. Mass displacement can indicate that atrocities are happening or imminent and protecting IDPs is central to preventing further harm.

The doctrine of Responsibility to Protect emerged from a decade of humanitarian and political struggle, namely, the inability of the international community to prevent the genocide in Rwanda in 1994 and in Srebrenica in 1995. These events exposed the limits of a strict, “non-interventionist” view of sovereignty, where the principle of non-interference often was prioritized over the duty to protect human life²⁷⁵. The tragedies of the 1990s also exposed the inadequacy of existing humanitarian instruments: early warnings were ignored, peacekeeping mandates were too weak, and political will was absent when it mattered most²⁷⁶.

At the same time, Francis Deng, as the UN Secretary-General’s Representative on Internally Displaced Persons, began elaborating the idea of “sovereignty as responsibility”, the notion that sovereignty carries an obligation to protect and assist populations within a state’s borders²⁷⁷. Deng further argued that this duty extended to preventing displacement, protecting those displaced, and enabling their safe return or resettlement²⁷⁸.

To address the tension between sovereignty and humanitarian needs the Canadian government established, in 2000, the International Commission on Intervention and

²⁷⁴ Global Centre for the Responsibility to Protect, *Libya and the Responsibility to Protect* (2011), see <https://www.globalr2p.org/publications/libya-and-the-responsibility-to-protect/>

²⁷⁵ Jasjit Singh, “Reconceptualizing Sovereignty: The Emergence of the Responsibility to Protect (R2P) in International Law,” *Cambridge Open Engage* (3 April 2025), para. 2; Paul Christopher, “Humanitarian Interventions and the Limits of Sovereignty,” *Public Affairs Quarterly* 10, no. 2 (1996).

²⁷⁶ Adam Roberts, “The Role of Humanitarian Issues in International Politics in the 1990s,” *International Review of the Red Cross* 81, no. 833 (1999).

²⁷⁷ Francis M. Deng, “From ‘Sovereignty as Responsibility’ to the ‘Responsibility to Protect’,” *Global Responsibility to Protect* 2, no. 4 (2010).

²⁷⁸ Roberta Cohen and Francis M. Deng, “Sovereignty as Responsibility: Building Block for R2P,” in *The Oxford Handbook of the Responsibility to Protect*, ed. Alex J. Bellamy and Tim Dunne (Oxford: Oxford University Press, 2016).

State Sovereignty (ICISS). Its 2001 report, “*The Responsibility to Protect*”, shifted the focus of the discussion, instead of asking *when states may intervene*, it asked *when states must protect*. The report introduced three linked responsibilities, to prevent, to react, and to rebuild, and stressed that military intervention was only one instrument among many, to be used only as a last resort²⁷⁹.

The turning point came a few years later, when R2P gained legitimacy at the 2005 World Summit. During the meeting, member states agreed on a clear statement of the Responsibility to Protect. As a result, The World Summit Outcome Document (UN General Assembly Resolution A/RES/60/1) set out, in paragraphs 138 and 139, the core principles of R2P.²⁸⁰

As a matter of fact, paragraph 138 affirms that “*each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity*”. This duty is not limited to responding once atrocities happen as it also requires preventing such using all “appropriate and necessary means”²⁸¹. By endorsing the Outcome Document, states recognized a moral duty to act in accordance with its provisions, acknowledged the role of the international community in supporting them, and agreed that the United Nations should strengthen its early-warning mechanisms to address potential mass atrocities before they escalate.

Paragraph 139 builds on this by recognizing that the international community itself, acting through the United Nations, also carries responsibility to protect populations from the four atrocity crimes. It states that this should begin with “*appropriate diplomatic, humanitarian and other peaceful means*”²⁸². However, if such measures are inadequate and a state is “*manifestly failing*” to protect its population,

²⁷⁹ International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001), xi–xiii.

²⁸⁰ United Nations General Assembly, 2005 World Summit Outcome, A/RES/60/1 (24 October 2005), paras. 138–139.

²⁸¹ Ibid.

²⁸² Ibid.

collective action can be taken through the Security Council, in accordance with Chapter VII of the UN Charter²⁸³.

The Outcome Document provided the closest thing to an “official” definition of R2P, unanimously approved by all UN member states. It narrowed the doctrine’s scope to the four atrocity crimes, affirmed that the primary duty to protect rests with the state itself, and positioned the UN Security Council as the central authority for authorizing any coercive measures.

Initial reactions to the World Summit’s endorsement of R2P were mixed. For many states, particularly in Africa, Latin America, and parts of Europe, the principle represented a framework able to prevent another Rwanda or Srebrenica. In Africa, the idea was extremely well received, as the African Union’s Constitutive Act, adopted in 2000, already had a similar provision in Article 4(h), which recognizes “*the right of the Union to intervene*” in a member state in cases of genocide, war crimes, and crimes against humanity²⁸⁴. This regional precedent meant that, for many African leaders, R2P was not a new demand, but simply a confirmation at a global level of norms they had already accepted. However, some states in Asia, the Middle East, and parts of the former Soviet Union remained more cautious, as they were concerned that R2P could be used to justify interference in internal affairs or force a regime change. These concerns were shaped by historical evidence: the interventions in Kosovo (1999) and Iraq (2003) had generated a climate of suspicion, particularly in cases where force was used without explicit consent from the Security Council²⁸⁵.

In the years following the 2005 World Summit, the UN Secretary-General issued a series of reports to clarify and strengthen R2P, most notably the 2009 report “Implementing the Responsibility to Protect”²⁸⁶, which introduced the now

²⁸³ United Nations. *Charter of the United Nations*. 26 June 1945. 1 UNTS XVI.

²⁸⁴ Constitutive Act of the African Union adopted 11 July 2000, art. 4(h).

²⁸⁵ Schroeder, Emily. “The Kosovo Crisis: Humanitarian Imperative versus International Law.” *The Fletcher Forum of World Affairs* 28, no. 1 (Winter 2004); Ashok Sadasivan. “Humanitarian Intervention and Sovereignty: A Case Study of NATO’s Intervention in Kosovo (1999).” *International Journal of Creative Research Thoughts* 13, no. 4 (April 2025).

²⁸⁶ United Nations Secretary-General, *Implementing the Responsibility to Protect*, A/63/677 (12 January 2009), paras. 10–11.

widespread three-pillar framework, thus helping to address some of the doubts left by the Outcome Document; and provided a guide for applying R2P in different contexts, including situations of internal displacement.

These three pillars remain the standard reference for understanding how R2P should work. It's important to note that they are not meant to be taken as a fixed sequence of steps, but as elements that support each other. While prevention remains the priority, the framework recognizes that when it fails rapid actions are vital.

The first pillar affirms that states have the primary duty to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. This involves preventing such crimes, stopping them if they occur, and addressing their root causes. For IDPs, this means ensuring safety during displacement, preventing arbitrary displacement, and supporting durable solutions²⁸⁷.

The second pillar recognizes that some states may lack the capacity to protect their populations, even if they are willing to do so. In such cases, the international community has a role to assist. This can involve technical support, humanitarian aid, training for security forces, and help in developing laws and policies for IDP protection. In displacement contexts, pillar two might mean supporting national IDP frameworks by funding shelter and health services or facilitating humanitarian access. It's important to note that these forms of intervention must not replace national systems, rather they should strengthen state capacity to build lasting solutions²⁸⁸.

The third pillar addresses the situation where a state is actively failing to protect its population. In these circumstances, the international community must be ready to take collective action, following the provisions of the UN Charter. Possible measures can go from diplomatic actions and targeted sanctions to, in the most extreme cases, military intervention authorized by the Security Council. For IDPs, this might involve establishing peacekeeping missions to protect camps, creating

²⁸⁷ International Committee of the Red Cross, *Movement Policy on Internal Displacement*, Council of Delegates of the International Red Cross and Red Crescent Movement, 23–25 November 2009.

²⁸⁸ Global Protection Cluster, *Global Protection Cluster Strategy 2025–2030*.

humanitarian corridors to allow passage, or requiring ceasefires to facilitate safe return²⁸⁹. The 2000 ICISS report emphasized that any coercive action must respect clear standards: a just cause, the right intention, use of force only as a last resort, proportional means, and a reasonable chance of success²⁹⁰.

Although the formal scope of the Responsibility to Protect is limited to the four atrocity crimes, genocide, war crimes, ethnic cleansing, and crimes against humanity, situations of internal displacement are often closely linked to them. Forced displacement can be used as a tactic of ethnic cleansing, with the aim of altering the ethnic composition of a territory, or it can be the direct consequence of indiscriminate violence during conflicts. Safeguarding IDPs is not a secondary concern within the Responsibility to Protect: it is a key part of achieving its prevention and protection objectives²⁹¹.

The three main responsibilities linked to the principle of R2P, to prevent, to react, and to rebuild, can be easily applied to the setting of IDPs. In the context of displacement, prevention means addressing the root causes that force people from their homes, including armed conflict, persecution, and human rights violations. This requires more than reactive measures as it calls for effective early warning systems, mediation efforts to resolve disputes before they escalate, and safeguarding measures to ensure that development projects do not lead to arbitrary displacement²⁹². The *Guiding Principles on Internal Displacement* offer a clear framework for these preventive actions, setting out the obligations of states and other actors to avoid displacement wherever possible²⁹³.

²⁸⁹ United Nations General Assembly, *2005 World Summit Outcome*, UN Doc. A/RES/60/1 (24 October 2005), paras. 138–139; Global Protection Cluster, *Global Protection Cluster Strategy 2025–2030* (Global Protection Cluster, 30 April 2025); European Centre for the Responsibility to Protect, “R2P, Military Intervention & Peacekeeping.”

²⁹⁰ International Commission on Intervention and State Sovereignty. *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty*. International Development Research Centre, 2001.

²⁹¹ International Committee of the Red Cross. *Internal Displacement in Armed Conflict: Facing up to the Challenges*. ICRC, November 2009.

²⁹² United Nations High Commissioner for Refugees, *Early Warning for Forced Displacement* (UNHCR, August 2023).

²⁹³ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2 (11 February 1998), Principle 30.

As for protection under R2P, it involves ensuring the safety and dignity of IDPs once displacement has occurred. These obligations mirror the GPID, including guaranteeing access to humanitarian assistance, preventing attacks on camps or civilian settlements, and protecting fundamental rights such as housing, education, and healthcare. In addition, under ICRC frameworks, all authorities, state or otherwise, must grant immediate access to humanitarian organizations²⁹⁴.

Finally, rebuilding reflects R2P's third pillar and focuses on post-crisis recovery. For IDPs, this means restoring what was lost: reclaiming property and land rights, re-establishing livelihoods, and ensuring access to justice for violations suffered during displacement. In Africa, the *Kampala Convention* chose to strengthen these obligations by making them legally binding for its States Parties, transforming theoretical provisions into a concrete legal duty²⁹⁵.

Implementing the Responsibility to Protect for internally displaced persons demands prolonged political commitment, sufficient resources, and effective coordination among different actors. However, in practice, one of the most significant obstacles is that any coercive action under R2P, such as sanctions, military intervention, or other enforcement measures, must be authorized by the UN Security Council. This means that any decisive action can be vetoed by the five permanent members of the council, whenever their political interests or interests are at stake. Examples of the P5 exercising their veto power even in the face of grave crimes or mass atrocities vary, and in the context of R2P a clear example is represented by the Syrian conflict. As a matter of fact, despite overwhelming evidence of mass atrocities and the displacement of millions, repeated vetoes, particularly by Russia and China, prevented the adoption of meaningful collective measures²⁹⁶.

²⁹⁴ Global Protection Cluster, *Handbook for the Protection of Internally Displaced Persons* (GPC, 2010), 11–14; International Committee of the Red Cross (ICRC), *Movement Policy on Internal Displacement* (Council of Delegates, 2009).

²⁹⁵ Adama Dieng “Protecting Internally Displaced Persons: The Value of the Kampala Convention as a Regional Example,” *International Review of the Red Cross* 99, no. 1 (2017).

²⁹⁶ Francisco De Abreu Duarte, “Responsibility to Protect (R2P) and the Syrian Refugee Crisis: A Missed Opportunity?” *e-Pública* 3, no. 2 (2016); Sebahate Shala, “The Responsibility to Protect: How the World Failed in Syria,” *World Mediation Organization Journal*, 13 March 2024.

Another challenge is that, while R2P places strong emphasis on the primary responsibility of the state, it provides limited guidance for fragile or conflict-affected states on how to develop the capacity needed to protect IDPs. This gap between the principle's letter and the tools available often results in protection efforts that are under-resourced not well coordinated or fragmented²⁹⁷.

Still, despite all its limitations, the Responsibility to Protect has contributed to reshaping the understanding of sovereignty and protection in international relations.

Scholars have long emphasized that sovereignty has never been an absolute shield against outside scrutiny, but rather an evolving concept shaped by changing political realities. Over the twentieth century, the rise of international human rights law, the prohibition of genocide, and the creation of international criminal tribunals further weakened the notion that sovereignty grants unlimited discretion, emphasizing that modern sovereignty is tied to responsibility toward populations²⁹⁸.

Whiting this broader framework, Deng argued in developed the concept of “sovereignty as responsibility,” arguing that a state’s legitimacy rests not only on its control over territory but on its ability and willingness to safeguard its population. The R2P builds on this, affirming that safeguarding populations, including those displaced within their own countries, is the central pillar of legitimate sovereignty²⁹⁹.

²⁹⁷ Andrea Daidone, *How Does the R2P Affect the State-Building in Fragile States?* Analytical Dossier No. 21/2021 (Vision & Global Trends – International Institute for Global Analyses, May 2021).

²⁹⁸ Daniel Philpott, *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations* (Princeton University Press, 2001); Francis M. Deng et al., *Sovereignty as Responsibility: Conflict Management in Africa* (Brookings Institution, 1996).

²⁹⁹ Roberta Cohen and Francis M. Deng, “Sovereignty as Responsibility: Building Block for R2P,” in *The Oxford Handbook of the Responsibility to Protect*, ed. Alex J. Bellamy and Tim Dunne (Oxford University Press, 2016).

2. The Role of the United Nations and Its Institutions

2.1. The Principal Organs of the United Nations

2.1.1. The Security Council

The R2P has reframed sovereignty as a responsibility, highlighting that states bear the primary duty to safeguard their populations, including those displaced within their borders. However, the protection of IDPs cannot rest on states alone, nor it can be ensured by principles or soft-law instruments, such as the GPID. The principal organs of the United Nations have gradually integrated internal displacement in their agendas, playing a critical role in enforcing protection.

The UN Security Council has played the most visible role in addressing internal displacement, even though its engagement has been uneven and often limited by political divisions. While the Council has never adopted a dedicated resolution on IDPs, it has progressively integrated displacement into its broader mandate. Resolution 1265, adopted in 1999, is the Council's first thematic resolution on the protection of civilians in the context of armed conflicts, and it explicitly recognized the "*particular vulnerability*" of both refugees and internally displaced persons, while at the same time, reaffirming state's responsibility to ensure their protection. The resolution also emphasized that humanitarian personnel should always have access to displaced and refugee settlements³⁰⁰. Resolution 1674, adopted in 2006, went further, explicitly condemning forced displacement, framing it as a violation of international humanitarian law. Furthermore, the Resolution mandates all parties involved in conflict to ensure that peace negotiations, and post-conflict strategies address the specific needs of vulnerable groups, including IDPs³⁰¹. Lastly, Resolution 2417 of 2018 addressed the specific link between armed conflict and food scarcity. It recognized that food insecurity due to armed conflict or human rights violations can act as drivers of displacement, while also affirming that forced

³⁰⁰ United Nations Security Council, *Resolution 1265 (1999)*, S/RES/1265 (17 September 1999).

³⁰¹ United Nations Security Council, *Resolution 1674 (2006)*, S/RES/1674 (28 April 2006), para. 5, 11.

displacement itself can have devastating consequences on agricultural production and the livelihoods of affected communities³⁰².

Contributions to the IDP debate have not been limited to thematic resolutions, as a matter of fact the Council has repeatedly addressed the issue of internal displacement in its country specific debates. Between 1999 and 2010, at least 142 Council resolutions referenced internal displacement, out of the 747 adopted during that timeframe. These references were particularly frequent in addressing peacekeeping operations in Georgia, the Democratic Republic of Congo, Sudan, Bosnia and Herzegovina, and Côte d'Ivoire, where the Council not only acknowledged the humanitarian issue of IDPs but also mandated missions to facilitate humanitarian access, support voluntary return, and monitor human rights violations³⁰³.

A more recent development, has been the institutionalization of annual briefings by the United Nations High Commissioner for Refugees. As a matter of fact, since the mid-2010, the Council has invited the High Commissioner to deliver briefings which originally focused on only refugees, but have gradually expanded to cover IDPs as well. According to the Security Council Report Monthly Forecast, of April 2025, this practice is now regularized, and data on displacement is now clearly disaggregated between refugees and internally displaced, so that the Council can reference it accurately in its debates addressing internal displacement³⁰⁴.

More recently, the Council's debates have underscored how mass displacement must be understood not only as a humanitarian emergency, but also as a matter of international security. For example, in Syria, the Council often cited displacement

³⁰² United Nations Security Council, *Resolution 2417 (2018)*, S/RES/2417 (24 May 2018), para. 2.

³⁰³ Sanjula Weerasinghe and Elizabeth Ferris, *Security Council, Internal Displacement and Protection: Recommendations for Strengthening Action through Resolutions* (Brookings Institution–LSE Project on Internal Displacement, September 2011)

³⁰⁴ Security Council Report, "UN High Commissioner for Refugees," Monthly Forecast, April 2025, <https://www.securitycouncilreport.org/monthly-forecast/2025-04/un-high-commissioner-for-refugees-3.php>

as a driver of regional instability³⁰⁵. The conflict in Ukraine has been framed similarly, with Council debates highlighting mass displacement as a destabilizing factor for European security³⁰⁶.

However, reports note that the Security Council's engagement with displacement in country-specific contexts, is often inconsistent, shaped by the interests of permanent members, rather than by humanitarian need³⁰⁷. The Council has repeatedly failed to address internal displacement in a way proportionate with the scale of the crisis. Most Security Council resolutions that refer to internally displaced persons tend to conflate them with refugees, overlooking the distinct needs of the two groups. Furthermore, when it comes to durable solutions, the Council disproportionately focuses on return, rarely acknowledging local integration or settlement elsewhere in the country. This matters as there are context, such as the Georgian situation, in which the Council emphasizes return even when it is clearly an unrealistic solution³⁰⁸.

While the Council has surely given visibility to displacement crises, issues such as political divisions and the use of the veto, have prevented it from adopting strong measures. The lack of binding resolutions then creates a gap, that other actors such as the UNHCR and the ICRC, have attempted to fill; as well as contrasting with the more "normative" and programmatic contributions of organs such as the General Assembly and the Human rights Council.

2.1.2. The General Assembly

³⁰⁵ see UN News, "Security Council debates precarious path forward for a new Syria," 18 April 2025, <https://news.un.org/en/story/2025/04/1162621>, citing displacement as a destabilizing factor in the region.

³⁰⁶ UN News, "Security Council debates precarious path forward for a new Syria," 18 April 2025, <https://news.un.org/en/story/2025/04/1162621>

³⁰⁷ Sanjula Weerasinghe and Elizabeth Ferris, *Security Council, Internal Displacement and Protection: Recommendations for Strengthening Action through Resolutions* (Brookings Institution–LSE Project on Internal Displacement, September 2011)

³⁰⁸ Ibid.

The UN General Assembly has played a central role in shaping the normative framework for the protection of internally displaced persons. Unlike the Security Council, the GA does not adopt binding measures, but its resolutions carry significant political and moral authority, and they have been fundamental in consolidating international consensus around IDP protection.

In 1998, the Representative of the Secretary-General on Internally Displaced Persons presented the Guiding Principles on Internal Displacement to the General Assembly, which immediately acknowledged the Principles as a key international reference framework for the protection of IDPs³⁰⁹. This recognition gave the GPID legitimacy, encouraging their use by states and regional organizations.

Furthermore, since the late 1990s, the GA has adopted multiple resolutions on the “*Protection of and assistance to internally displaced persons.*”. These resolutions consistently reaffirm the primary responsibility of states to provide protection and assistance to IDPs, while also calling for unconditional humanitarian access and urging states to cooperate with the Special Rapporteur on the human rights of IDPs³¹⁰. Over time, the scope of the resolutions broadened, focusing more on durable solutions, including return, local integration, and settlement elsewhere in the country, but also stressing that such solutions must be voluntary, safe, and dignified. The GA also stressed the importance of taking into consideration specific vulnerabilities in IDPs needs assessments, recognizing that displacement disproportionately affects women, children, older persons, and persons with disabilities³¹¹. The resolutions also encourage states to incorporate the Guiding Principles into domestic law and policy, further reinforcing their authority³¹². They further highlight the need for development actors to cooperate with humanitarian

³⁰⁹ United Nations General Assembly, *Protection of and Assistance to Internally Displaced Persons*, A/RES/53/125 (9 December 1998)

³¹⁰ United Nations General Assembly, *Protection of and Assistance to Internally Displaced Persons*, A/RES/53/125 (9 December 1998)

³¹¹ United Nations General Assembly, *Protection of and Assistance to Internally Displaced Persons*, A/RES/78/185 (19 December 2023),

³¹² United Nations General Assembly, *Protection of and Assistance to Internally Displaced Persons*, A/RES/59/170 (20 December 2004)

agencies, acknowledging that displacement is not only a humanitarian emergency but also a long-term development challenge³¹³.

Beyond resolutions, the GA also provides a global forum where IDP issues can be debated without the veto constraints of the Security Council. This has allowed states, humanitarian agencies, and civil society to keep displacement on the international agenda, to share best practices, and to consolidate support around emerging norms.

Despite these contributions, however, the General Assembly's role is limited by the non-binding nature of its resolutions. Implementation depends on the political will of states and the operational capacity of agencies such as UNHCR and OCHA. Nevertheless, the GA has been crucial in legitimizing IDP protection norms, sustaining international attention, and reinforcing the accountability of states³¹⁴.

2.1.3. The Human Rights Council

The Human Rights Council (HRC) has become a central forum for promoting the protection of internally displaced persons within the United Nations system. Created in 2006 to replace the Commission on Human Rights, the Council was designed to strengthen the UN's ability to respond to human rights challenges³¹⁵. The Council preserved the mandate originally given to the Representative of the Secretary-General on Internally Displaced Persons, which was later transformed as the role of the Special Rapporteur on the human rights of IDP³¹⁶. The continuity of this mandate ensured that internal displacement remained a permanent part of the

³¹³ United Nations General Assembly, *Protection of and Assistance to Internally Displaced Persons*, A/RES/72/182 (19 December 2017)

³¹⁴ Walter Kälin, *Guiding Principles on Internal Displacement: Annotations* (American Society of International Law, 2008)

³¹⁵ United Nations General Assembly, *Human Rights Council*, A/RES/60/251 (3 April 2006).

³¹⁶ United Nations Human Rights Council, *Human Rights of Internally Displaced Persons*, A/HRC/RES/6/32 (14 December 2007); Office of the High Commissioner for Human Rights (OHCHR), *About the Mandate of the Special Rapporteur on the Human Rights of Internally Displaced Persons*.

UN's human rights agenda, while the Council's authority gave the issue greater visibility and political weight.

The Human Rights Council's resolutions on IDPs regularly reaffirm the primary responsibility of states to protect and assist IDPs, but also urge governments to cooperate with the Special Rapporteur by facilitating country visits, responding to communications, and implementing recommendations³¹⁷. These resolutions further call for unhindered humanitarian access, stressing that denial of access can amount to a violation of international humanitarian and human rights law.

The Council also encourages states to incorporate IDP safeguards into domestic legal and policy frameworks, explicitly referencing the Guiding Principles on Internal Displacement³¹⁸. In doing so, it reinforces the Principles' authority as the global standard for IDP protection.

Moreover, the HRC mandates the Special Rapporteur on the human rights of IDPs to submit annual reports, both thematic and country-specific. These reports have addressed issues such as participation of IDPs in decision-making³¹⁹ and governance structures for displacement³²⁰. More recently, the Special Rapporteur addressed the challenge of planned relocation in the context of climate change, focusing on displacement linked to disasters and environmental degradation and illustrating the Council's evolving agenda³²¹. This demonstrates how the HRC has become a platform for addressing emerging drivers of displacement that extend beyond armed conflict.

³¹⁷ United Nations Human Rights Council, *Human Rights of Internally Displaced Persons*, A/HRC/RES/53/8 (13 July 2023)

³¹⁸ United Nations Human Rights Council, *Human Rights of Internally Displaced Persons*, A/HRC/RES/6/32 (14 December 2007)

³¹⁹ United Nations General Assembly, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, A/72/202, 21 July 2017

³²⁰ United Nations, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/70/334 (7 August 2015).

³²¹ United Nations Human Rights Council. *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons, Paula Gaviria Betancur: Planned Relocation in the Context of Disasters and the Adverse Effects of Climate Change*. A/HRC/56/54. 21 April 2024.

Like the General Assembly, however, the HRC's resolutions are not legally binding. Their effectiveness depends on the political will of states and their cooperation with the Special Rapporteur. Still, the Council has been indispensable in keeping IDPs on the human rights agenda, legitimizing the Guiding Principles, and providing backing to the Special Rapporteur's work.

2.2. The Special Rapporteur on the Human Rights of IDPs

2.2.1. Report of the Special Rapporteur on the human rights of internally displaced persons (A/70/334): Governance structures for internal displacement

The *Special Rapporteur on the Human Rights of Internally Displaced Persons* is an independent expert appointed by the UN Human Rights Council to monitor, advise, and report on the situation of IDPs worldwide³²². Its authority comes from interpreting and applying existing international standards, notably the *Guiding Principles on Internal Displacement*, and from engagement with governments, humanitarian agencies, and displaced communities.

Reports to the UN General Assembly, such as "*Governance structures for internal displacement*" (The Report), are significant as they consolidate good practice, legal interpretation, and policy guidance in a form recognized across the UN system³²³. States, UN agencies, and regional organizations frequently use these reports as guides for legislative and policy reform.

The Report reaffirms that the state bears the primary duty to protect and assist IDPs. This duty goes beyond providing relief in case of emergency situations as it covers the entire displacement cycle, from prevention to protection, assistance, and the development of durable solutions³²⁴.

³²² United Nations Human Rights Council, *Mandate of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, Res. 6/32 (14 December 2007).

³²³ United Nations, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/70/334 (7 August 2015).

³²⁴ *Ibid.* para. 5.

To meet these responsibilities, states must put in place governance systems grounded in law, supported by adequate resources, and capable of functioning effectively. The Report sets out a series of requirements³²⁵: first, states must develop a national legal and policy framework aligned with international standards, particularly the *Guiding Principles on Internal Displacement*, to define rights, prohibit arbitrary displacement, and assign institutional duties³²⁶. States must also establish a central coordination mechanism with the legal mandate, political authority, and budget to lead the response to displacement crises³²⁷, as well as decentralized implementation strategies by empowering local authorities³²⁸. This involves investing in capacity-building at all levels, so that institutions and personnel can properly fulfill their mandates³²⁹.

Furthermore, governments must ensure predictable and transparent resource allocation mechanisms, at both national and local levels³³⁰. Another requirement, set out in The Report, is the integration of displacement into prevention, preparedness, and mitigation systems, with the goal of reducing the severity of future crises³³¹. This includes integrating humanitarian assistance with strategies for durable solutions from the start, guaranteeing that recovery and reintegration are part of the initial planning process³³².

These elements work best when they operate together. Without a clear legal framework, coordination has no authority. Similarly, without adequate resources, decentralization simply shifts responsibility without giving the means to act. If no prevention measures exist, crises will happen again. And without early planning for solutions, displacement will become cyclic.

³²⁵ United Nations, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/70/334 (7 August 2015), paras. 6-7.

³²⁶ *Ibid.*

³²⁷ *Ibid.* paras. 15-17.

³²⁸ *Ibid.* paras. 21-22.

³²⁹ *Ibid.* paras. 49-50.

³³⁰ United Nations, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/70/334 (7 August 2015), paras. 18-20.

³³¹ *Ibid.* paras. 27-28

³³² *Ibid.* paras. 44-46

The Report affirms that the basis of effective governance is a national legal and policy framework aligned with international standards, particularly the GPID. This framework should: define the rights of IDPs and prohibit arbitrary displacement; specify the duties of state institutions at national and local levels and allocate resources for implementation. As the *Special Rapporteur* observes, integrating IDP protection into disaster risk reduction, and development strategies ensures that displacement is addressed as part of a cohesive governance approach rather than as an isolated emergency³³³.

Within this framework, states are required to establish a central national authority, such as a ministry, department, or specialized office, with the legal mandate, authority, and an adequate budget to manage all aspects of the IDP response³³⁴. This authority should ideally be at a ministerial level, and it should be able to bring ministries together, coordinate work between sectors, and make sure national policy includes IDP protection. To support this role, The Report recommends establishing inter-ministerial committees to coordinate across sectors, recognizing that displacement affects multiple areas such as housing, health, education, security, and justice. The logic behind the Report is clear, as without a central coordination responses risk being fragmented, leaving critical protection gaps³³⁵.

An interesting example comes from Georgia where, after the 2008 conflict, the government established the Ministry for Internally Displaced Persons from the Occupied Territories. The minister coordinated assistance, oversaw housing projects, and coordinated with humanitarian actors, highlighting how, despite persisting challenges, the existence of a single central authority improved the coherence of the framework³³⁶. This case will be further discussed in Chapter 4.

The Report further affirms that while central leadership is essential, governments must also decentralize responsibilities to local authorities. A strong central body

³³³ United Nations, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/70/334 (7 August 2015). paras. 6-7.

³³⁴ *Ibid.* paras. 15–17.

³³⁵ United Nations, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/70/334 (7 August 2015) para. 23.

³³⁶ UNHCR, *Protection of Internally Displaced Persons in Georgia: A Gap Analysis* (UNHCR, 2009).

provides guidance, but municipal and regional authorities are often the first responders, and their proximity to affected communities allows them to adapt national policy to local realities³³⁷. Governments should give local authorities clear mandates and adequate funding, integrating IDP needs into local development plans so that protection and assistance form part of wider social and economic strategies, not *ad hoc* humanitarian projects. International monitoring bodies note that decentralization works, making IDP responses stronger and more effective in the long term³³⁸.

While strong legal mandates matter, effective governance also depends on predictable and sustained financing³³⁹. As the *Special Rapporteur* highlights, policy without dedicated budgets is meaningless, as depending on donor funding is not sustainable in the long run. The Report recommends that states create specific budget lines for IDP protection and assistance integrating them within national development plans. The *Special Rapporteur* also stresses that resource allocation should be evenly distributed between national and local authorities, so that decentralized structures have the means to actually implement national policy³⁴⁰. A notable example comes once again from the AU's Kampala Convention, as it requires member states to “*allocate resources to provide for the protection and assistance of internally displaced persons*” integrating IDPs needs into national and local development plans³⁴¹.

The *Special Rapporteur on the Human Rights of Internally Displaced Persons* further emphasizes the importance of prevention, preparedness, and mitigation strategies. The Report calls on states to integrate IDP protection into disaster risk

³³⁷ United Nations, Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons, UN Doc. A/70/334 (7 August 2015), para. 28

³³⁸ Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2024* (IDMC, 2024); Brookings Institution–London School of Economics Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers* (Brookings Institution, 2008).

³³⁹ United Nations, Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons, UN Doc. A/70/334 (7 August 2015), para. 35

³⁴⁰ United Nations, Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons, UN Doc. A/70/334 (7 August 2015). paras. 28, 35.

³⁴¹ African Union, *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)*, adopted 23 October 2009, entered into force 6 December 2012, Art. 5(4).

reduction, conflict prevention, and early warning systems³⁴². This approach reflects the reality that many displacement crises are cyclical or protracted, with affected communities often facing overlapping risks from conflict, disasters, and climate change.

The Report's emphasis on prevention and preparedness resonates not only with the *Sendai Framework for Disaster Risk Reduction (2015–2030)* which requires governments to incorporate displacement risk into national and local DRR strategies³⁴³, but also with broader international law.

The International Law Commission's Draft Articles on the Protection of Persons in the Event of Disasters (2016) establish a set of principles that go beyond humanitarian relief, to include duties of prevention, mitigation, and preparedness, as well as the primary responsibility of the affected state to protect persons within its territory, the duty to seek and accept assistance when national capacity fails, and the obligation to cooperate internationally³⁴⁴.

These provisions underscore that disaster-related displacement is not merely a humanitarian concern but a matter of legal responsibility. Similarly, the International Law Association's London Conference Report and Resolution on Internally Displaced Persons (2000) was among the first international legal instruments to explicitly extend IDP protection beyond conflict to include disasters and development-induced displacement. It also endorsed the Guiding Principles on Internal Displacement and urged states to incorporate them into domestic law and policy, while also stressing the importance of durable solutions and cooperation between states, international organizations, and NGOs³⁴⁵.

³⁴² UNGA, *Report of the Special Rapporteur on the Human Rights of IDPs*, A/70/334, para.61.

³⁴³ United Nations Office for Disaster Risk Reduction, *Sendai Framework for Disaster Risk Reduction 2015–2030*, adopted at the Third UN World Conference on Disaster Risk Reduction, Sendai, Japan, 18 March 2015.

³⁴⁴ International Law Commission. *Draft Articles on the Protection of Persons in the Event of Disasters, with Commentaries*. Yearbook of the International Law Commission, 2016, vol. II, Part Two.

³⁴⁵ International Law Association. *Report of the Committee on Internally Displaced Persons and Resolution No. 17/2000 on Internally Displaced Persons, adopted at the 69th Conference, London, 2000*.

Integration requires clear institutional responsibilities, as prevention and preparedness must be assigned to specific bodies. The Special Rapporteur calls for cooperation across ministries, including environment, infrastructure, and local government. An interesting example comes from Uganda, after the Lord's Resistance Army conflict. In this context the Office of the Prime Minister coordinated humanitarian relief during the first emergency phase, then gradually handing over recovery and development responsibilities to ministries and local governments under the Peace, Recovery and Development Plan. This approach avoided gaps that oftentimes occur whenever responsibility for emergency situations shifts from one actor to another³⁴⁶.

When it comes to durable solutions, such as voluntary return, local integration, or settlement elsewhere, the Special rapporteur warns that these must be planned from the very start of a crisis. This obligation means incorporating displacement issues into national development plans, housing and land policies, and peacebuilding strategies, and once again, states must define which authority is responsible for each stage of the displacement cycle. Early planning for durable solutions is critical, otherwise IDPs risk remaining dependent on humanitarian aid for years. The IDMC's global report on internal displacements, similarly, observed when the needs of internally displaced persons are integrated into national development frameworks, access to housing, livelihoods, and essential services is accelerated, while the risk of secondary displacement is reduced³⁴⁷.

Finally, The Report highlights that even the strongest legal framework and coordination mechanisms will fail without appropriate human and institutional capacity. The special rapporteur then calls on states to invest in training on IDPs rights, protection standards and operational guides. Local authorities, especially,

³⁴⁶ Government of Uganda, *Peace, Recovery and Development Plan for Northern Uganda (PRDP) 2007–2010* (Office of the Prime Minister, 2007).

³⁴⁷ Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2025*, IDMC/Norwegian Refugee Council, 2025.

adequate resources and technical support, as they are the ones directly dealing with affected communities³⁴⁸.

The *Special Rapporteur* also calls for partnerships with civil society, national human rights institutions, organizations led by IDPs, referencing existing frameworks such as the Training Manual for Civil Society Organizations on the Kampala Convention³⁴⁹. These collaborations bring together technical expertise, local knowledge, and community trust into decision-making, ensuring that policies match the lived experiences of the displaced. Furthermore, the Special Rapporteur warns that capacity must be built and maintained through prolonged efforts. Without this engagement, states risk becoming fully dependent on international organizations, weakening national progress towards developing durable solutions.

Taken together, the measures set out The Report offer States a complete guide forming a coherent governance framework. When these elements are implemented together, they create the conditions for a right-based response that addresses displacement comprehensively rather than sporadically.

Yet, the report makes clear that this framework is only as effective as the political will and institutional commitment behind it. The next step, therefore, is to examine how this framework can be strengthened through the meaningful participation of IDPs themselves, ensuring that those most affected are active partners in shaping the decisions that define their recovery and future.

The decision to focus on this report, rather than on more recent ones is deliberate. As a matter of fact, The Report is significant as it represents one of the most comprehensive guidelines of how states should build governance systems for internal displacement. Earlier reports had addressed specific themes, but this document organized the, into a coherent framework, setting out the legal,

³⁴⁸ United Nations General Assembly, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, A/70/334, 19 August 2015, paras 64-66.

³⁴⁹ African Centre for Democracy and Human Rights Studies, International Commission of Jurists (Kenya Section and European Institutions), and Norwegian Refugee Council, *Training Manual for Civil Society Organisations on the Kampala Convention and its Model Law*, ACDHRS, 2014.

institutional, and financial measures required for effective national responses³⁵⁰. Later reports further expanded the analysis, but the 2015 Report stands out, as it can be used as a standard of comparison against which subsequent developments can be assessed and is therefore especially relevant in understanding how international law and evolved.

2.2.2. Report of the Special Rapporteur on the human rights of internally displaced persons (A/72/202): Enhancing the participation of internally displaced persons

Administrative and governance safeguards, such as national IDP laws and coordination mechanisms, provide an essential basis for protection frameworks. However, on their own they are not enough to fully secure the rights of internally displaced persons. What is often missing is their direct involvement in shaping the decisions that affect their lives.

The Special Rapporteur on the Human Rights of Internally Displaced Persons affirms that participation is both a right and a necessary condition for achieving durable solutions. As set out in “*Enhancing the participation of internally displaced persons in decisions affecting them*” (The Report), IDPs must have the ability to meaningfully influence decisions concerning their protection, assistance, and recovery, and must not be consulted just as a formality³⁵¹.

³⁵⁰ See, e.g., Francis M. Deng, *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1997/39: Internally displaced persons* (E/CN.4/1998/53, 11 February 1998); Francis M. Deng, *Report of the Representative of the Secretary-General on internally displaced persons, submitted pursuant to Commission on Human Rights resolution 2000/53* (E/CN.4/2001/5, 11 January 2001); Walter Kälin, *Report of the Representative of the Secretary-General on the human rights of internally displaced persons* (E/CN.4/2006/71, 23 February 2006); Walter Kälin, *Report of the Representative of the Secretary-General on the human rights of internally displaced persons* (A/HRC/13/21, 5 January 2010); Chaloka Beyani, *Report of the Special Rapporteur on the human rights of internally displaced persons* (A/HRC/19/54, 26 December 2011); and Chaloka Beyani, *Report of the Special Rapporteur on the human rights of internally displaced persons* (A/69/295, 11 August 2014).

³⁵¹ United Nations General Assembly, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, A/72/202, 21 July 2017, paras. 14-15.

States have the duty to safeguard participation rights by embedding them into national legislations. These provisions should specify the scope of participation, the bodies or forums in which IDPs can take part, and the mechanisms for selecting their representatives. This obligation is grounded in international human right law instruments, including the right to take part in public affairs under Article 25 of the ICCPR, the guarantees of equal participation for women under CEDAW, and the provisions of the Convention on the Rights of Persons with Disabilities (CRPD) on inclusion in decision-making³⁵².

Further International and regional instruments specific to IDPs reinforce this obligation. Principle 28 of the *Guiding Principles on Internal Displacement* affirms that IDPs have the right to participate in decisions that affect them, particularly in the planning and of their return, resettlement, and reintegration³⁵³. Similarly, Article 9 of the Kampala Convention requires States Parties to consult with IDPs on decisions concerning their protection and assistance³⁵⁴.

At the core of effective participation is the restoration, or acquisition, of legal identity, as without recognized documentation, IDPs can be excluded from voting, running for office, serving on representative bodies, or even entering the spaces where decisions are made. The Special Rapporteur notes that the loss or destruction of documents during displacement is extremely common, and that resolving this barrier is essential for ensuring effective participation. Furthermore, International research describes legal identity as a “gateway right”, meaning it allows access to a wide range of civil, political, and socio-economic rights³⁵⁵. Its absence not only

³⁵² United Nations, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations Treaty Series, vol. 999, art. 25; United Nations, *Convention on the Elimination of All Forms of Discrimination against Women*, 18 December 1979, United Nations Treaty Series, vol. 1249, p. 13; United Nations, *Convention on the Rights of Persons with Disabilities*, 13 December 2006, United Nations Treaty Series, vol. 2515, p. 3.

³⁵³ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2 (11 February 1998).

³⁵⁴ African Union, *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (Kampala Convention), 23 October 2009, Art. 9.

³⁵⁵ World Bank Group. *Identification for Development (ID4D) Initiative: Identification as a Gateway to Rights and Services*. World Bank, 2018.

restricts formal participation but also exacerbates other obstacles, including insecurity, discrimination, and movement limitations³⁵⁶.

The Special Rapporteur also stresses that participation is not only a fundamental right of IDPs but is also essential for the success of durable solutions. As a matter of fact, direct involvement in shaping policies and programmes, means these are more likely to reflect IDPs priorities, address specific risks, and build on their capacities, making solutions more relevant to the context and more sustainable over time³⁵⁷.

Participation also builds a sense of ownership, as displaced communities that help design housing projects, livelihood initiatives, or service delivery plans are more committed to making them work and more willing to take responsibility for their maintenance. Evidence from research on political and social inclusion further shows that when IDPs are included in planning, it gives them more control over their lives, transforming them from passive recipients of aid to active participants to recovery³⁵⁸.

By contrast, excluding IDPs from decision making carries significant risks as policies developed without them may miss critical needs, ignore causes of vulnerability, or impose solutions that are impractical or culturally inappropriate. These kinds of mistakes can prolong displacement, erode trust in institutions, and even create new tensions³⁵⁹.

Building on these examples then, it is clear that participation is most effective when it's embedded into governance systems. As The Report highlights, this cannot be achieved by simply inviting IDPs to meetings or sharing information. Once participation rights are embedded into national law, they must be put into action through concrete action. The Special Rapporteur identifies several key mechanisms

³⁵⁶ Norwegian Refugee Council and World Bank Group. *Legal Identity in Forced Displacement Contexts*. NRC/WBG, 2021.

³⁵⁷ United Nations, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/72/202, 25 July 2017, para. 11.

³⁵⁸ UNHCR and McGill Centre for Human Rights and Legal Pluralism, *Workshop Report: Participation of Internally Displaced Persons in Decision-Making*, 2023.

³⁵⁹ Organization for Security and Co-operation in Europe (OSCE). "Issue 3.1: Rights of IDPs and National Responsibilities."

through which IDPs can participate in decisions that affect their lives. These mechanisms, further reinforced by the UNHCR *Handbook for the Protection of Internally Displaced Persons*, should be inclusive, accessible, and capable of actually influencing outcomes³⁶⁰.

First of all, states must conduct structured consultations that allow IDPs to contribute to the design of laws, policies, and programmes. To be effective, they must include diverse groups, including women, youth, minorities, and persons with disabilities, and be clearly connected to decision making³⁶¹. The UNHCR Handbook emphasizes that these consultations should be put into place from the earliest stages of displacement and repeated over time, so that they can be updated as conditions change.

Secondly, IDP representation in decision making bodies is just as critical, as it ensures that displaced people have an official say in governance³⁶². This can include seats on municipal planning boards, national coordination committees, or thematic working groups³⁶³.

The Report also stresses the importance of community-driven planning by placing IDPs at the centre of needs assessments, recovery plans, and service design. When communities lead these efforts, they are better able to identify risks, set priorities, and propose solutions. Evidence shows that IDP groups have successfully led local recovery planning, linking humanitarian and development efforts with both their own needs and those of host communities³⁶⁴.

³⁶⁰ UNHCR. *Handbook for the Protection of Internally Displaced Persons*. Geneva: United Nations High Commissioner for Refugees, 2008, Part I, Section 3.

³⁶¹ United Nations, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/72/202, 25 July 2017, para. 38

³⁶² Ibid. para. 39.

³⁶³ In Colombia, *mesas de participación* provide displaced communities with a formal space to engage in planning processes, allowing them to present proposals, monitor implementation, and influence local development plans. see *Secretaría Distrital de Planeación*. “Distrito instala la Mesa de Participación Ciudadana para la formulación del Plan Distrital de Desarrollo 2024–2028.” *Secretaría Distrital de Planeación*, April 4, 2024.

³⁶⁴ United Nations Office for the Coordination of Humanitarian Affairs (OCHA). *Reducing Protracted Internal Displacement: A Snapshot of Successful Humanitarian–Development Cooperation*. OCHA, 2020.

Lastly, in some contexts, new digital tools have expanded opportunities for participation by connecting IDP across regions and facilitating dialogue with authorities³⁶⁵. For example, in Ukraine, the national Diia platform has enabled IDP councils to coordinate positions, share data, and directly communicate with central authorities, while also providing online training to strengthen their role in shaping local and national policies³⁶⁶.

Still, even when these participation mechanisms exist, a range of barriers can prevent IDPs from participating fully and effectively in civic life. The special rapporteur identified a set of limitations. First of all, in many displacement situations, security risks are the main concern. Oftentimes, speaking out or taking on leadership positions can expose IDPs to threats from armed actors and political authorities. Furthermore, ongoing conflict can make it physically unsafe to attend meetings or consultations. Logistical limitations, such as distance to meeting venues, lack of transport or language barriers can further limit participation, especially in rural and remote areas³⁶⁷.

Discrimination also weakens participation, as one might be excluded not only because of their displacement status, but also on the basis of ethnicity, gender, disability or age. For certain groups, such as women, ethnic minorities, LGBTQ+ persons, and persons with disabilities, these challenges often overlap, creating intersectional barriers that make participation even more difficult. Addressing these barriers requires targeted measures to ensure that participation mechanisms are genuinely inclusive and accessible³⁶⁸.

Ensuring meaningful participation requires coordinated action by national and local authorities, civil society, IDP groups, and international actors. Each has distinct

³⁶⁵ UNHCR and McGill Centre for Human Rights and Legal Pluralism, Workshop Report: Participation of Internally Displaced Persons in Decision-Making, 2023.

³⁶⁶ Stabilization Support Services. “IDP Councils Portal Launched in Ukraine.” Interfax-Ukraine, March 28, 2024.

³⁶⁷ United Nations, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/72/202, 25 July 2017, paras. 41–42.

³⁶⁸ United Nations, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/72/202, 25 July 2017, para. 43

responsibilities that, when combined, create the conditions for IDPs to influence decisions that affect their lives.

National authorities have the primary responsibility to remove any legal and administrative barrier to participation. This includes restoring identity documents, adapting electoral laws and procedures to include displaced voters, and ensuring IDP representation in national bodies and thematic working groups. All this should be integrated in legislation and policy, with resources allocated to make them effective.

As for local authorities, they are often the first point of contact for IDPs and play a key role in creating safe, accessible spaces for engagement. This can involve integrating IDPs into municipal planning processes, supporting local consultative forums, and ensuring that meeting venues, formats, and schedules are accessible to all groups, including women, youth, and persons with disabilities. Civil society also plays a central role in enabling inclusion, helping identify community priorities and fundamentally acting as a bridge between affected communities and central authorities. NGOs and IDP groups can provide civic education, advocacy training, and organizational support, creating safe spaces for dialogue. These organizations are often the best way to reach more marginalized communities, such as women and minorities³⁶⁹.

Lastly, International organizations and donors strengthen participation by supporting the capacity of IDP representatives, funding training processes, and monitoring whether participation mechanisms are genuinely representative. They can also help advocate for systemic reforms when national or local frameworks are inadequate and help ensure that participation commitments are put into practice³⁷⁰.

Embedding participation into laws, policies, and practice is essential to protecting the rights of internally displaced persons and to making solutions last. It is not

³⁶⁹ Global Protection Cluster and The Carter Center, *Public and Political Participation of Internally Displaced Persons: Report of a Global Protection Cluster and Carter Center Round-Table*, October 2018.

³⁷⁰ United Nations, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/72/202, 25 July 2017, para. 47.

enough to create formal mechanisms, as they must be well resourced, accessible, and capable of creating real consequences. This means addressing the legal, practical, and social barriers that limit participation, while at the same time, building the skills of IDP representatives and the institutions that work with them. When these elements come together, participation becomes a driver of better governance and stronger communities.

The report is particularly important because it marks a shift in the mandate's approach by placing the participation of IDPs at the centre of protection and solutions. Earlier reports had concentrated on governance structures, legal frameworks, and coordination mechanisms, but this document reframed IDPs as rights-holders, introducing participation as a core principle of durable solutions.

Against this backdrop, the engagement of the United Nations and its institutions becomes critical, both in supporting States to meet their obligations and in promoting global standards for protecting the fundamental rights of displaced populations.

2.3. UNHCR and the Cluster Approach

The Office of the United Nations High Commissioner for Refugees (UNHCR) occupies a central position in the international framework for the protection of internally displaced persons. While its original mandate, established by the General Assembly in Resolution 428(V) of 1950, was focused only on refugees, the evolution of displacement crises globally, and the recognition of protection gaps for IDPs have led to a gradual expansion of its operational role³⁷¹. This evolution has been shaped by a series of General Assembly resolutions, Executive Committee conclusions, and inter-agency agreements, which have affirmed UNHCR's capacity to operate in situations of internal displacement when requested by the Secretary-General or the competent organs of the United Nations, and with the consent of the State affected. In particular, ExCom Conclusion No. 75 (1994)

³⁷¹ United Nations General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, Annex to General Assembly Resolution 428 (V), 14 December 1950.

affirmed UNHCR's capacity to engage in situations of internal displacement when requested by the Secretary-General or the competent organs of the United Nations, with the consent of the concerned state³⁷². The practice was later consolidated by the 2005 adoption of the Cluster Approach, which appointed UNHCR as the lead agency for the Protection, Camp Coordination and Camp Management, and Emergency Shelter clusters in conflict-induced displacement³⁷³. In these contexts, UNHCR's expertise on crisis management, field presence, and coordination capacity have made it the leading actor in shaping responses that safeguard rights and promote solutions³⁷⁴.

UNHCR's work with internally displaced persons is grounded in its broader protection mandate, which focuses on upholding international protection standards, building lasting solutions, and coordinating international support for affected populations³⁷⁵. In the context of IDPs, UNHCR operates within the limits of state sovereignty, acting as a complementary force to state authorities³⁷⁶. Whenever UNHCR is involved in internal displacement, it applies the same core protection principles that guide its work with refugees, non-discrimination, voluntary and informed decisions, and placing the affected person at the centre, while adapting them to the specific legal and practical challenges of internal displacement³⁷⁷.

The Statute of the Office, together with later policy frameworks, make clear that protection is not limited to legal advocacy, but it must extend to practical actions that allow displaced persons to exercise their rights. This includes ensuring access

³⁷² UNHCR Executive Committee, Conclusion on Internally Displaced Persons, No. 75 (XLV), 1994.

³⁷³ Inter-Agency Standing Committee (IASC), *Guidance Note on Using the Cluster Approach to Strengthen Humanitarian Response*, 24 November 2006; United Nations General Assembly, *Strengthening of the coordination of emergency humanitarian assistance of the United Nations*, A/RES/60/124 (15 December 2005).

³⁷⁴ UNHCR, *Note on the Mandate of the High Commissioner for Refugees and His Office*, October 2013.

³⁷⁵ UNHCR, *UNHCR's Mandate for Refugees and Stateless Persons and Its Role in IDP Situations*, UNHCR, 2014.

³⁷⁶ Cohen, Roberta, *Strengthening Protection of IDPs: The UNHCR's Role*, Brookings–Bern Project on Internal Displacement, 2006.

³⁷⁷ UNHCR, *Policy Framework and Implementation Strategy for UNHCR's Role in Support of an Enhanced Humanitarian Response to Situations of Internal Displacement*, UNHCR, 2007.

to documentation, facilitating civic participation, and rebuilding livelihoods³⁷⁸. In the complex setting of displacement, these functions are not exercised by UNHCR alone, as it acts in partnership with other UN agencies, NGOs, and community-based organizations, under the umbrella of the so-called Cluster Approach.

The Cluster Approach was introduced by the Inter-Agency Standing Committee (IASC) in 2005 as part of the Humanitarian Reform process, in response to persistent gaps in humanitarian response and coordination, focusing particularly on the lack of clear leadership³⁷⁹. Under this new system, specific UN agencies, or other international organizations, are chosen as “cluster leads” for specific sectors of humanitarian action, such as shelter, sanitation, logistics or camp coordination³⁸⁰. Each cluster lead is responsible for setting adequate standards, coordinating the work of other partners, and securing the resources needed for their sector. This approach is meant to improve predictability, by making it clear in advance which actor will cure each sector; to strengthen accountability, by assigning clear responsibilities; and to promote collaboration with other UN agencies, NGOs, and actors³⁸¹.

As for internal displacement, especially in the case of conflict, UNHCR was chosen as the lead for the Protection Cluster, and as co-lead for the Shelter and Camp Coordination and Camp Management (CCCM) clusters³⁸². These roles place UNHCR at the centre of collaborative efforts, recognizing its abilities in needs assessment, field-level coordination, as well as its capacity to deliver assistance in emergency situations³⁸³.

³⁷⁸ UNHCR. *Handbook for the Protection of Internally Displaced Persons*. United Nations High Commissioner for Refugees, 2008.

³⁷⁹ Inter-Agency Standing Committee, *Guidance Note on Using the Cluster Approach to Strengthen Humanitarian Response*, IASC, 2006.

³⁸⁰ UNHCR, *UNHCR's Protection of Internally Displaced Persons (IDPs) under the Cluster Approach*, UNHCR, 2010.

³⁸¹ United Nations Human Rights Council, *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons*, UN Doc. A/HRC/41/40, 17 April 2019.

³⁸² Inter-Agency Standing Committee, *Guidance Note on Using the Cluster Approach to Strengthen Humanitarian Response*, IASC, 2006

³⁸³ UNHCR, *UNHCR's Role in IDP Protection: Opportunities and Challenges, Forced Migration Review*, no. 27 (2007).

The Protection Cluster is tasked with making sure protection issues are addressed in every part of humanitarian action. Its mission, as set out in the Global Protection Cluster framework, is to coordinate effective protection responses, ensuring that the rights of affected populations are respected and that solutions follow international law³⁸⁴. This includes monitoring and analyzing threat levels, documenting, and reporting violations, and advocating for compliance with international humanitarian, human rights, and refugee law; as well as intervening in to prevent or respond to abuses. Within the Protection cluster, UNHCR cooperates with specialized “Areas of Responsibility” (AoRs) led by other agencies, such as gender-based violence (UNFPA), child protection (UNICEF), housing, land and property (NRC), and mine action (UNMAS), to ensure protection response is coherent³⁸⁵.

In parallel, UNHCR also co-leads the Shelter and Camp Coordination and Camp Management (CCCM) clusters. Its duties include addressing emergency shelter and the transition durable housing solutions, ensuring they meet set standards and are culturally appropriate, accessible, and safe; as well as taking care of the planning and managing of camps³⁸⁶. Together these allow UNHCR to address both the immediate and structural needs of internally displaced persons in complex emergencies.

Beyond its coordination responsibilities within the cluster framework, UNHCR’s leadership is characterized by a strong emphasis on IDPs participation³⁸⁷. In the Protection Cluster, IDP perspectives are integrated into needs assessments, response plans, and monitoring. Furthermore, feedback and complaint mechanisms give displaced communities a direct role in decisions and a means to hold humanitarian actors accountable³⁸⁸. At a country level, UNHCR has promoted the establishment of multiple local protection groups, advisory boards, and thematic working groups that include IDP representatives, allowing them to clearly

³⁸⁴ *Protection Cluster*, UNHCR Emergency Handbook, 31 Jan 2025, sec. 1, Overview.

³⁸⁵ *Protection Cluster*, UNHCR Emergency Handbook, 31 Jan 2025, sec. 1, Overview.

³⁸⁶ *Ibid.* sec. 2, Relevance for Emergency Operations.

³⁸⁷ *Ibid.* sec. 1, “Values and principles.”

³⁸⁸ *Ibid.* sec. 3, “AAP/Protection mainstreaming.”

communicate their specific needs. Similarly, participation is a core element in both the Shelter and CCCM clusters' work. For example, under CCCM leadership, site planning now often uses participatory mapping where IDPs help decide where facilities are placed, where services are located, and how communal spaces are managed. While in shelter management, consulting displaced communities ensures that designs respect cultural norms, are accessible to persons with disabilities, and are appropriate for local environmental conditions³⁸⁹.

Ultimately, UNHCR's mandate in the Cluster Approach creates significant opportunities to strengthen IDP protection and participation, as by bringing together diverse actors, clusters can combine resources, align standards, and reinforce advocacy³⁹⁰.

However, several challenges remain. First of all, coordination gaps can emerge whenever national authorities are unwilling or unable to cooperate with cluster mechanisms. Similarly, limited resources, both financial and human, can limit the ability of clusters to hold regular consultations, support community structures, and put commitments in practice³⁹¹. In some contexts, security concerns or political unrest limits access to affected populations, making it impossible to provide relief. Addressing all these challenges requires constant investment in the capacity of both humanitarian actors and IDP representatives, as well as strong advocacy to ensure that participation is recognized as a core element of protection³⁹².

2.4. The role of the ICRC in assisting IDPs

The International Committee of the Red Cross (ICRC) plays a critical role in protecting and assisting internally displaced persons. Its mandate is grounded in international humanitarian law and the Statutes of the International Red Cross and Red Crescent Movement, and it gives it a unique position among humanitarian

³⁸⁹ *Protection Cluster*, UNHCR Emergency Handbook, 31 Jan 2025.

³⁹⁰ Inter-Agency Standing Committee, *Guidance Note on Using the Cluster Approach to Strengthen Humanitarian Response*, IASC, 2006.

³⁹¹ Roberta Cohen, "Strengthening Protection of IDPs: The UN's Role," *Forced Migration Review*, no. 27 (2007).

³⁹² *Protection Cluster*, UNHCR Emergency Handbook, 31 Jan 2025. sec. 3, "AAP/Protection mainstreaming."; UNHCR, *Policy Framework and Implementation Strategy*, 2007.

actors. Unlike other international agencies, whose role and responsibilities are defined by the UN system, the ICRC is not part of the United Nations and has its separate international legal status. Therefore, it operates independently, under its own legal and institutional framework. This means the organization is able to intervene whenever armed conflict or other situations of violence occur, regardless of UN positions.

It's important to note that, given its status, the ICRC does have observer status at the UN General Assembly, and works closely with its organizations³⁹³. Still, despite operating outside the UN framework, the ICRC is a standing invitee to the Inter-Agency Standing Committee (IASC) and takes part in coordination meetings. However, it does not take any cluster leadership roles, in order to preserve its independence and avoid being tied by UN political frameworks. In practice then, the ICRC complements UN actions, as it operates in areas that are often inaccessible to other humanitarian actors³⁹⁴. Given its neutrality, it is able to maintain confidential dialogue with all parties to a conflict, without losing access to affected communities.

The ICRC's mandate derives from the four Geneva Conventions of 1949, in particular Common Article 3 and the Fourth Geneva Convention, which prohibit arbitrary displacement and require the protection of civilians³⁹⁵, as well as from the Additional Protocols of 1977, which explicitly recognize the ICRC's right to offer its services in both international and non-international armed conflicts.³⁹⁶

In addition, Article 5 of the Statutes of the International Red Cross and Red Crescent Movement defines the ICRC as “*a neutral institution having a*

³⁹³Jean-Philippe Lavoyer, “Internally Displaced Persons: The Mandate and Role of the International Committee of the Red Cross,” *International Review of the Red Cross* 83, no. 843 (September 2001).

³⁹⁴ International Committee of the Red Cross, *Statement on Strengthening the Coordination of UN Humanitarian and Disaster Relief Assistance* (ICRC, 2018).

³⁹⁵ Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 75 U.N.T.S. 287, arts. 16–18, 49; Common Article 3 to the four Geneva Conventions of 1949.

³⁹⁶ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125 U.N.T.S. 3, art. 81(1); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, 1125 U.N.T.S. 609, art. 18.

humanitarian mission to protect the lives and dignity of victims of armed conflict and other situations of violence” and affirms its right of humanitarian initiative. In situations of violence not covered by international humanitarian law, this right of initiative provides the legal basis for ICRC action, but always subject to the consent of the state authorities³⁹⁷. In this way, the ICRC can intervene without being seen as interfering in internal affairs, while ensuring that humanitarian needs are met. Its mandate requires it to act swiftly, as a neutral body, in accordance with international humanitarian law³⁹⁸. IHL prohibits arbitrary displacement and requires parties of conflict to ensure the safety, dignity, and basic needs of civilians under their control. While IHL does not establish a separate legal category for IDPs, their protection derives directly from their civilian status³⁹⁹.

A key element of the mandate is the right of humanitarian initiative, which allows the ICRC to intervene in both situations of armed conflict, and in other situations of violence⁴⁰⁰. ICRC intervention “*cannot be interpreted as interference in States’ internal affairs, nor as a recognition or support to a party to the conflict*”⁴⁰¹ and parties can theoretically only refuse to grant access if there are no proven humanitarian needs. This provision allows the ICRC to act across all phases of displacement: preventing forced displacement where possible, assisting those already displaced, and supporting safe, voluntary, and dignified return or resettlement.

The ICRC’s work is defined by neutrality, impartiality, and independence. Neutrality means it does not take sides in hostilities or political disputes.

³⁹⁷ Statutes of the International Red Cross and Red Crescent Movement, adopted by the 25th International Conference of the Red Cross, Geneva, 1986, as amended 1995 and 2006, art. 5(2)(d), art. 5(3).

³⁹⁸ Ibid. art. 5(2)(d)–(g).

³⁹⁹ International Committee of the Red Cross, *ICRC Position on Internally Displaced Persons*, ICRC, May 2006.

⁴⁰⁰ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, 1125 U.N.T.S. 609, art. 18 (2): “ If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.”

⁴⁰¹ International Committee of the Red Cross, “Humanitarian Access: What the Law Says,” ICRC, last modified October 17, 2014.

Impartiality ensures assistance is based solely on need, without any discrimination. While independence safeguards the organization's autonomy from political or military agendas⁴⁰².

The International Committee of the Red Cross provides both protection and assistance measures. Protection activities include monitoring the treatment of civilians and IDPs, visiting places of detention, and engaging in dialogue with authorities and armed groups to promote compliance with IHL. Furthermore, it advocates for safe return, freedom of movement, and access to essential services. It also works on reuniting families separated by displacement, particularly focusing on unaccompanied minors⁴⁰³.

As for assistance activities, ICRC addresses urgent needs and reduces exposure to risks. These include providing access to water by rebuilding damaged supply systems or the installation of emergency water points; repairing medical facilities to prevent spreading of diseases; providing emergency shelter; supplying medical equipment and providing staff training; and restoring livelihoods by distributing seeds, tools, and livestock. These measures are directed to both IDPs and host communities, who often risk collapse under economic and social pressure. Depending on the context, the ICRC also offers risk education for example in areas where mining work is common, as well as first aid and surgical care to victims of explosive hazards, physical rehabilitation services, including prosthetics⁴⁰⁴. Assistance is always adapted to the specific vulnerabilities of displaced populations, with particular attention on minorities, such as unaccompanied minors, women-led households, older persons, and persons with disabilities⁴⁰⁵.

⁴⁰² International Committee of the Red Cross, *Fundamental Principles of the Red Cross and Red Crescent*, ICRC, 1996.

⁴⁰³ International Committee of the Red Cross, *Restoring Family Links: Responding to the Needs of the Missing and Their Families*, ICRC, 2016.

⁴⁰⁴ International Committee of the Red Cross, *Water and Habitat: Ensuring Decent Living Conditions* (ICRC, 2015); ICRC, *Economic Security: Livelihood Support in Conflict-Affected Areas* (ICRC, 2011); ICRC, "Mine Action and Risk Reduction Education," last modified 2021; ICRC, *Physical Rehabilitation Programme Annual Report* (ICRC, various years).

⁴⁰⁵ In Iraq, the ICRC supported widows displaced by conflict providing economic grants and help in accessing social welfare. *see* International Committee of the Red Cross. *Iraq: Women Struggle to Make Ends Meet*. ICRC, February 2011.

In order to identify specific needs, The ICRC works directly with affected communities through small focus groups or individual interviews to protect privacy and avoid exposing people to retaliation. This is part of its community-based protection approach that involves working with affected communities to identify threats, coping mechanisms, and designing practical solutions. Practical examples include relocating water points to reduce the risk of attack or even adapting shelter designs to reflect cultural norms. It's interesting to note how this form of participation differs from the more open and consultative processes used by the UNHCR, which focuses on public consultations⁴⁰⁶.

While the ICRC's mandate, principles, and operational methods enable it to respond effectively to the needs of internally displaced persons, the context in which it operates presents several challenges. As for any humanitarian actor, access can be denied, or made impossible due to ongoing conflict. Furthermore, in politically sensitive settings, despite its neutral stance, the ICRC is often accused of picking a side⁴⁰⁷. As a matter of fact, during the recent escalation in the Middle East, the NGO UN Watch, a pro-Israel advocacy organization, accused the ICRC of favoritism in its response to the Gaza crisis, claiming its public statements favoured one side. The ICRC rejected these allegations, emphasizing once again its neutrality, and clarifying it operates solely on the basis of humanitarian principles and IHL⁴⁰⁸. Limited resources further weaken ICRC response, often forcing difficult choices on what to prioritize, meaning certain needs are left unmet⁴⁰⁹.

Despite these challenges, the ICRC continues to play a vital role in assisting internally displaced persons. Its ability to engage with all parties to a conflict, operate in areas inaccessible to most humanitarian actors, and combine protection with assistance gives it a unique advantage. By working directly with affected

⁴⁰⁶ International Committee of the Red Cross, *Community-Based Protection: The ICRC Approach* (ICRC, 2018); Alessandra Cotroneo and Marta Pawlak, "Community-Based Protection: The ICRC Approach," *Forced Migration Review*, no. 53 (October 2016).

⁴⁰⁷ International Committee of the Red Cross, *Neutrality and Impartiality: The Importance of These Principles for the International Red Cross and Red Crescent Movement*, *International Review of the Red Cross*, 2015.

⁴⁰⁸ International Committee of the Red Cross, Under Attack from UN Watch, Defends Its Neutrality in Gaza War, *The Geneva Observer*, December 2023.

⁴⁰⁹ Jakob Kellenberger, "The ICRC's Response to Internal Displacement: Strengths, Challenges and Constraints," *International Review of the Red Cross* 91, no. 875 (September 2009).

communities, the ICRC ensures that its interventions reflect the experiences of those it assists. Although challenges remain, its combination of legal authority, neutrality, and constant field presence enables the organization to make a significant contribution to safeguarding the rights, and dignity well-being of displaced persons.

2.5. The Inter-Agency Standing Committee (IASC) and the 2024 IDP Protection Policy

The Inter-Agency Standing Committee (IASC) is the main humanitarian coordination mechanism for United Nations and non-UN partners. It was established in 1992 under UN General Assembly Resolution 46/182, and it is chaired by the Emergency Relief Coordinator⁴¹⁰. The Committee brings together UN humanitarian agencies, the International Organization for Migration (IOM), the International Federation of Red Cross and Red Crescent Societies (IFRC), and several NGOs, with standing invitees such as the International Committee of the Red Cross (ICRC). Its mandate is to develop humanitarian policy, ensure effective coordination across agencies, and provide a guide for field operations, particularly in complex emergencies and long-term crises⁴¹¹.

Therefore, the IASC plays a central role in shaping the international community's response to internally displaced persons. Through the cluster approach, the Committee assigns leadership roles to specific agencies, for example, UNHCR leads the Global Protection Cluster, WFP leads Logistics, while UNICEF leads Education, ensuring that IDP needs are addressed in a coordinated framework⁴¹².

Its mandate allows the IASC to develop policies that shape protection priorities and set common standards across the humanitarian response framework. Furthermore, it is tasked with coordinating Humanitarian Country Teams (HCTs), monitoring strategies at a national level to make sure they are coherent and effective. It also

⁴¹⁰ United Nations General Assembly, *Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations*, A/RES/46/182 (19 December 1991).

⁴¹¹ UN Office for the Coordination of Humanitarian Affairs, *Reference Guide: Normative Developments on the Coordination of Humanitarian Assistance* (OCHA, 2012).

⁴¹² Inter-Agency Standing Committee. *Guidance Note on Using the Cluster Approach to Strengthen Humanitarian Response*. IASC, 2006.

promotes accountability to affected populations, requiring humanitarian actors to follow their feedback. This includes ensuring that policies are intersectional, addressing minority rights as well as climate change issues.

Building on its mandate, in 2010 the Committee adopted its first *Policy on the Protection of Internally Displaced Persons*, establishing a clear framework for internal displacement to guide humanitarian actors in all phases of displacement⁴¹³. However, in the years since, the displacement landscape has evolved, new drivers have emerged and the number of IDPs has risen drastically⁴¹⁴. To avoid any gaps in its strategy, in 2023 it commissioned an *Independent Review of the Humanitarian Response to Internal Displacement*. The report found that humanitarian responses were often too slow and focused on short term solutions, rather than durable solutions, and that oftentimes engagement with IDPs was only a formality. It further recommended integrating protection across all sectors, incorporating climate-related displacement into planning, and making participation a consistent element of the response⁴¹⁵.

Following the review, the IASC adopted an updated *Policy on the Protection of Internally Displaced Persons* in 2024. While keeping the core elements of the 2010 policy, the new framework introduces several key updates. First of all, it acknowledges protracted displacement as a specific challenge, requiring sustained engagement and the early planning of durable solutions. Second, it incorporates climate-related displacement into needs assessments, focusing on building resilience measures. It also provides more detailed guidance for Humanitarian Country Teams (HCTs), putting great emphasis on meaningful participation of displaced communities⁴¹⁶.

⁴¹³ Inter-Agency Standing Committee, *IASC Policy on the Protection of Internally Displaced Persons* (IASC, 2010).

⁴¹⁴ Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2024* (IDMC, 2025).

⁴¹⁵ Humanitarian Policy Group, Overseas Development Institute, *Independent Review of the Humanitarian Response to Internal Displacement* (ODI, 2023), commissioned by the Inter-Agency Standing Committee.

⁴¹⁶ Inter-Agency Standing Committee, *IASC Policy on the Protection of Internally Displaced Persons* (IASC, 2024).

In practice, these priorities are integrated through a set of measures designed to strengthen coordination on the field. HCTs are required to integrate IDP protection into Humanitarian Response Plans (HRPs) and other strategic frameworks⁴¹⁷. Similarly, The Protection, Shelter, and Camp Coordination and Camp Management (CCCM) clusters must align their strategies with the 2024 policy's protection priorities⁴¹⁸.

As for durable solutions, the policy confirms its alignment with the *IASC Framework on Durable Solutions for Internally Displaced Persons* and the *Guidance on Solutions* (IASC/UNHCR), calling for early action towards voluntary return, local integration, or resettlement⁴¹⁹. To strengthen accountability to affected populations, HCTs must establish complaints mechanisms, enabling IDPs to hold agencies accountable⁴²⁰. Finally, the policy emphasizes the need for better data collection and analysis, including displacement figures disaggregated by age, gender, and diversity, so that interventions can be targeted.

Overall, the 2024 IASC Policy represents a shift from more theoretical and normative commitments to a more operationally grounded framework, integrating protracted displacement, climate-related risks, participation and data-driven planning at the centre of humanitarian coordination. Yet, enforcing these provisions in practice is a challenge. The IASC, as well as other international agencies, operate in an environment marked by diminishing humanitarian budgets, growing needs, and increasingly complex crises where conflict, climate shocks, and weak governance often overlap. Its ongoing reform, known as “humanitarian reset” attempts to make coordination more efficient and to give a stronger role to local authorities, yet faces many obstacles, such as uneven capacity across field actors, fragmented institutional structures and rigid compliance requirements that often

⁴¹⁷ Inter-Agency Standing Committee, *IASC Policy on the Protection of Internally Displaced Persons* (IASC, 2024).

⁴¹⁸ Ibid.

⁴¹⁹ Inter-Agency Standing Committee. *IASC Framework on Durable Solutions for Internally Displaced Persons*. IASC, 2010; UNHCR and Inter-Agency Standing Committee. *Guidance on Durable Solutions for Internally Displaced Persons*. UNHCR/IASC, 2020.

⁴²⁰ Inter-Agency Standing Committee, “IASC Commitments on Accountability to Affected People and Protection from Sexual Exploitation and Abuse,”.

marginalize local organizations⁴²¹. Guaranteeing that IDPs not only benefit from better coordination, but can also effectively claim their rights requires sustained, and robust oversight mechanisms.

3. Monitoring IDPs rights and their access to justice

The protection of internally displaced persons requires more than the adoption of policies and the recognition of rights in principle. It depends on continuous monitoring to assess whether those rights are respected in practice, and on the existence of effective mechanisms through which IDPs can seek remedies if violations occur. Monitoring provides the basis for holding states accountable, identifying gaps in protection, and ensuring that responses are aligned with international standards⁴²².

Access to justice is central to this process. For many IDPs, the conditions of displacement; including loss of documentation, discrimination, and the failure of institutions, make it difficult or impossible to claim their rights or obtain restitution. Without credible and accessible justice mechanisms, even the most comprehensive protection frameworks risk remaining ineffective⁴²³.

This section then examines the systems and standards tasked with the monitoring of IDP rights and their access to justice. Ranging from the role of the United Nations human rights treaty body system, to addressing the persistent barriers to justice in displacement contexts outlining the key international legal principles and standards that define the right to an effective remedy and assessing the role of international organizations in justice reform.

⁴²¹ *As the Humanitarian Reset Unfolds: What Will Local Leadership Look Like in Practice?*, The Share Trust, June 16, 2025; International Council of Voluntary Agencies. *The IASC Humanitarian Reset Examined*. ICVA, 2025.

⁴²² Deborah Casalin, “Durable Solutions for Internally Displaced Persons: Normative Anchors in International Human Rights Law,” *International Journal of Refugee Law* 35, no. 2 (2023).

⁴²³ Brookings–LSE Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers* (Brookings Institution, 2008).

3.1. The UN Human Rights Treaty Body System: Monitoring States Implementation of International Human Rights Law

The United Nations human rights treaty body system is the principal mechanism for monitoring how States implement the obligations they have chosen to adopt under the core international human rights treaties. It is composed of ten committees of independent experts, each established by a specific treaty: the Human Rights Committee (HRCtee), the Committee on Economic, Social and Cultural Rights (CESCR), the Committee on the Elimination of Discrimination against Women (CEDAW), the Committee on the Rights of the Child (CRC), the Committee against Torture (CAT), the Committee on the Rights of Persons with Disabilities (CRPD), the Committee on the Elimination of Racial Discrimination (CERD), the Committee on Migrant Workers (CMW), the Committee on Enforced Disappearances (CED), and the Subcommittee on Prevention of Torture (SPT)⁴²⁴.

Each UN treaty body is required to monitor State compliance with its respective treaty through a range of mechanisms. Firstly, member states are required to submit periodic reports, clarifying measures taken to implement treaty provisions. These reports are examined in public sessions, at the end of which each committee issues Concluding Observations containing recommendations for further action⁴²⁵. During review processes, individuals may submit confidential communications addressing violations of their rights, that can be then discussed during sessions⁴²⁶. To follow up, some treaty bodies are also entitled to carry out country visits in response to allegations of grave or human rights violations. In addition, committees adopt general comments or general recommendations to clarify interpretation of treaty provisions, providing clear guidance for further implementations to member states. This monitoring system is particularly relevant as it is anchored in binding international instruments, and it is composed of independent experts rather than

⁴²⁴ Office of the United Nations High Commissioner for Human Rights (OHCHR), *The United Nations Human Rights Treaty System: Fact Sheet No. 30/Rev.1* (United Nations, 2012).

⁴²⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR). “Universal Periodic Review.” for updated data *see* <https://www.ohchr.org/en/hr-bodies/upr>

⁴²⁶ OHCHR, *The United Nations Human Rights Treaty System*. 20-22.

state representatives, so that outcomes and general recommendations are not influenced by political agendas.

Although in this system there is no dedicated, binding international treaty addressing the protection of internally displaced persons, the rights of IDPs are grounded in the broader framework of international human rights law. The UN human rights treaty bodies then play a critical role in monitoring how States implement these rights, even when displacement is not explicitly mentioned in the treaty text.

As mentioned, IDPs are not protected under existing binding treaties, still their rights mirror provisions under several core human rights instruments. These include the right to freedom of movement and choice of residence, as set out in Article 12 of the *International Covenant on Civil and Political Rights* (ICCPR), which guarantees the ability to move within a state's territory and to choose one's residence⁴²⁷. IDPs are also entitled to the right of an adequate standard of living, including adequate housing, food, water, and essential services, without any discrimination, as per Article 11 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR)⁴²⁸.

Similarly, the principle of non-discrimination and equality before the law is protected by several instruments such as Article 26 of the ICCPR, and Articles 1 to 5 of the *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD), while Article 14 of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), is especially relevant as displacement disproportionately affects women in marginalized areas⁴²⁹.

Furthermore, displaced children are granted special protection measures under the *Convention on the Rights of the Child* (CRC), which requires states to provide

⁴²⁷ International Covenant on Civil and Political Rights, December 16, 1966, 999 U.N.T.S. 171, art. 12.

⁴²⁸ International Covenant on Economic, Social and Cultural Rights, December 16, 1966, 993 U.N.T.S. 3, art. 11.

⁴²⁹ International Covenant on Civil and Political Rights, art. 26; International Convention on the Elimination of All Forms of Racial Discrimination, December 21, 1965, 660 U.N.T.S. 195, arts. 1–5; Convention on the Elimination of All Forms of Discrimination against Women, December 18, 1979, 1249 U.N.T.S. 13, art. 14.

humanitarian assistance to refugee children, and by analogy, to those who are internally displaced⁴³⁰.

In practice, treaty bodies have repeatedly addressed displacement in their monitoring work. The Human Rights Committee has expressed concern over internal displacement in situations of armed conflict, natural disasters, and development projects, calling on states to ensure that durable solutions are put into place in accordance with human rights law⁴³¹. The Committee on Economic, Social and Cultural Rights has recommended that States implement stronger housing restitution programmes for IDPs, guarantee access to livelihoods, and integrate displaced populations into national social protection systems meant for refugees⁴³².

Moreover, the Committee on the Rights of the Child has requested the implementation of targeted measures to protect displaced children from exploitation, recruitment by armed groups, and barriers to education⁴³³. Similarly, the Committee on the Elimination of Discrimination against Women has highlighted the heightened vulnerability of displaced women to gender-based violence and stressed the importance of their participation in decision-making processes on durable solutions⁴³⁴.

Several of the same procedures used to monitor human rights implementations under international treaties that can be used to monitor the protection of internally displaced persons. As a matter of fact, when requesting state reports, committees prepare a “*Lists of Issues*” member state must provide data for, and treaty bodies can request specific information on displacement. Similarly, non-governmental

⁴³⁰ Convention on the Rights of the Child, November 20, 1989, 1577 U.N.T.S. 3, art. 22.

⁴³¹ Human Rights Committee, *Concluding Observations on the Fourth Periodic Report of Azerbaijan*, CCPR/C/AZE/CO/4 (United Nations, 2016), para. 34.

⁴³² Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Sixth Periodic Report of Colombia*, E/C.12/COL/CO/6 (United Nations, 2017), paras. 21–22.

⁴³³ Committee on the Rights of the Child, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Democratic Republic of the Congo*, CRC/C/COD/CO/5-6 (United Nations, 2017), paras. 38–39

⁴³⁴ Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Eighth Periodic Report of Nigeria*, CEDAW/C/NGA/CO/8 (United Nations, 2017), paras. 26–27.

organizations and IDP advocacy groups can submit *shadow reports* and individual communications to highlight protection gaps or violations⁴³⁵.

Taken together, these interventions highlight several consistent themes. First, there is a strong emphasis on durable solutions to include the full restoration of rights, livelihoods, and access to essential services. Second, treaty bodies adopt an intersectional approach, recognizing that displacement often exacerbates existing vulnerabilities linked to gender, age, ethnicity, or disability. Third, they frame displacement as a human rights accountability issue, affirming that States have binding obligations to prevent displacement where possible, to protect those displaced, and to facilitate conditions for voluntary and sustainable solutions⁴³⁶.

By grounding its analysis in binding treaty obligations, the UN treaty body system addresses displacement not as a humanitarian issue, but as a matter of legal responsibility. In doing so, it positions the protection of IDPs within the scope of enforceable rights under core humanitarian treaties. Therefore, states can be held accountable for structural failings that lead to prolonged displacement, such as the presence of discriminatory laws, the lack of mechanism to restore civil documentation, or the denial of access to essential services. The system also issues a formal record of recommendations, contained in the Concluding Observations, which can be used by Humanitarian Country Teams, protection clusters, and national human rights institutions to press for legislative, policy, and institutional reforms.⁴³⁷

However, the effectiveness of this monitoring depends on several conditions. First of all, states must report transparently on IDP-related issues, and they often manipulate data to avoid international scrutiny. Furthermore, strong civil society engagement is essential to provide accurate information through shadow reports and other submissions. Lastly, without follow up mechanisms, at both the national

⁴³⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR), *The United Nations Human Rights Treaty System: Fact Sheet No. 30/Rev.1* (United Nations, 2012).

⁴³⁶ Walter Kälin, *Guiding Principles on Internal Displacement: Annotations*, rev. ed. (Brookings Institution, 2008).

⁴³⁷ Brookings–LSE Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers* (Brookings Institution, 2008).

and international levels, to track the implementation of recommendations, the whole procedure is meaningless.

Ultimately, despite its potential, the treaty body system faces critical structural and practical limitations. Its recommendations, while authoritative, are non-binding, meaning that States can choose to ignore them without meaningful legal consequences. Follow-up is often limited due to lack of resources within the treaty bodies themselves and, in some cases, political resistance from States. Furthermore, under-reporting remains a persistent problem, affecting the committee's ability to address displacement in a comprehensive manner.

In sum, the treaty body system offers an important opportunity for monitoring the protection of IDPs under international human rights law. Its effectiveness ultimately depends on the transparency of state reporting, the capacity of civil society, and the political will to enforce recommendations. When, and if, all these conditions align, the mechanism becomes a powerful tool for embedding IDP protection within a binding human rights framework and for promoting lasting policy reform.

3.2. Lack of access to justice in the context of internal displacement

Access to justice is a fundamental component of the protection framework for internally displaced persons as it includes the ability to seek and obtain remedies for violations of rights through fair, transparent, and effective legal processes. For IDPs, this right is often undermined by the very conditions of displacement: the loss of documentation, physical insecurity, discrimination, and the breakdown or inaccessibility of judicial institutions. These barriers not only make it harder to resolve individual cases but also maintain deeper inequalities that keep people displaced and block long-term solutions⁴³⁸.

While humanitarian responses frequently prioritize immediate needs such as shelter, food, and medical care, the absence of effective access to justice leaves IDPs vulnerable to ongoing rights violations. Addressing this gap requires both a

⁴³⁸ Brookings–LSE Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers* (Brookings Institution, 2008).

clear understanding of the applicable international legal standards and the strengthening of institutional mechanisms capable of delivering remedies in practice.

3.2.1. Key International Legal Principles and Standards

The right of internally displaced persons to access justice is grounded in a series of binding international norms rather than a single treaty. These norms come from international human rights law, international humanitarian law and regional human rights systems, and they apply in situations of displacement caused by armed conflict, natural disasters, or other factors.⁴³⁹

For IDPs, these principles must be interpreted considering specific vulnerabilities and barriers created by displacement, including the loss of documentation, insecurity, discrimination, and the breakdown of judicial institutions. The three core principles of the international legal framework, relevant to IDP's access to justice are the right to an effective remedy; non-discrimination in access to justice; and standards drawn from IHL and IHRL.

The right to an effective remedy is a cornerstone of the international legal order, however, for IDPs it represents a decisive factor in whether displacement becomes temporary or becomes prolonged. Displacement often strips individuals of the tools they need to access the judicial system, such as identity documents, proof of property, access to legal representation, and physical proximity to functioning courts. Furthermore, in many cases, the justice system itself can be weakened or inaccessible due to ongoing conflicts or natural disasters⁴⁴⁰.

Under Article 2(3) of the ICCPR, States must ensure that any person whose rights are violated has access to an effective remedy, and the means to enforce it⁴⁴¹. This obligation is mirrored by Article 8 of the *Universal Declaration of Human Rights*

⁴³⁹ Walter Kälin, *Guiding Principles on Internal Displacement: Annotations*, rev. ed. (Washington, DC: Brookings Institution, 2008).

⁴⁴⁰ Brookings–LSE Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers* (Washington, DC: Brookings Institution, 2008).

⁴⁴¹ International Covenant on Civil and Political Rights, December 16, 1966, 999 U.N.T.S. 171, art. 2(3).

(UDHR), that affirms the right to an effective remedy by competent national tribunals; as well as multiple regional human rights systems⁴⁴².

For IDPs, the right to an effective remedy must be considered in light of the specific obstacles created by displacement. Remedies must always be accessible, despite the loss of identity documents, insecurity, discrimination, or physical distance from courts and administrative bodies, as well as appropriate and enforceable. In the context of displacement, this means granting restitution of housing, land, and property rights, often mandating the reconstruction of lost records. Whenever restitution is not possible, compensation must be issued, reflecting both material loss and non-material harm, such as emotional distress⁴⁴³. Further steps require satisfaction measures, including public acknowledgements of the harm suffered or official apologies, that despite not being strictly legal measures, are fundamental in restoring dignity. Lastly, guarantees of non-repetition, such as legal and institutional reforms are necessary to prevent future displacement⁴⁴⁴.

Further IDP specific instruments address the right to access justice. As a matter of fact, the Guiding Principles on Internal Displacement, in Principle 29(2), explicitly affirm that IDPs have the right to an effective remedy, including restitution and compensation⁴⁴⁵. As for property restitution, the main framework is the one established by the Pinheiro Principles, which provide further guidance⁴⁴⁶.

Jurisprudence addresses these principles as well, and it provides many rulings in which they were applied. In *M.S.S. v. Belgium and Greece*, the European Court of Human Rights examined the transfer of an asylum seeker under the Dublin II

⁴⁴² Universal Declaration of Human Rights, December 10, 1948, G.A. Res. 217 A (III), art. 8; European Convention on Human Rights, November 4, 1950, 213 U.N.T.S. 221, art. 13; American Convention on Human Rights, November 22, 1969, 1144 U.N.T.S. 123, art. 25; African Charter on Human and Peoples' Rights, June 27, 1981, 1520 U.N.T.S. 217, art. 7.

⁴⁴³ United Nations, *Principles on Housing and Property Restitution for Refugees and Displaced Persons* (Pinheiro Principles), E/CN.4/Sub.2/2005/17 (2005), principles 2–4.

⁴⁴⁴ United Nations, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, G.A. Res. 60/147 (March 21, 2006).

⁴⁴⁵ United Nations, Guiding Principles on Internal Displacement, UN Doc. E/CN.4/1998/53/Add.2 (11 February 1998), Principle 29.

⁴⁴⁶ United Nations, *Principles on Housing and Property Restitution for Refugees and Displaced Persons* (Pinheiro Principles), E/CN.4/Sub.2/2005/17 (2005).

Regulation to Greece, and it found that weaknesses in the Greek asylum system rendered available remedies ineffective. The court then stressed that remedies must always be both accessible and capable of providing redress in order to satisfy Article 13 of the ECHR, arguing that remedies that lack enforceability cannot be considered effective under European and International Law. This reasoning, despite focusing on asylum law, is directly applicable to IDPs, as they often face the same challenges as refugees⁴⁴⁷.

Moving to the principle of non-discrimination, for IDPs it is once again not only a formal guarantee, but the condition that determines whether justice is actually achievable. Displacement often reinforces pre-existing inequalities for minorities such as members of ethnic or religious groups, women, persons with disabilities, older persons, and rural populations, who end up facing even greater barriers than before. These combined disadvantages can result in complete exclusion for legal processes, or can manifest more subtly, including prejudiced treatment by justice officials, or the lack of targeted measures to engage with displaced populations⁴⁴⁸.

International human rights law directly addresses non-discrimination in multiple fundamental instruments. Article 26 of the ICCPR guarantees equality before the law and equal protection without discrimination, while article 2 of the ICESCR prohibits any discrimination in the enjoyment of the rights protected in the Covenant⁴⁴⁹.

Specialized treaties further reinforce these obligations for groups that may face heightened risks in displacement contexts such as the *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD), that requires States to guarantee equality before the law without distinction to race, nationality or ethnicity; or the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) which requires States to eliminate discrimination

⁴⁴⁷ *M.S.S. v. Belgium and Greece*, App. No. 30696/09, Eur. Ct. H.R. (2011), paras. 288–321.

⁴⁴⁸ Brookings–LSE Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers* (Washington, DC: Brookings Institution, 2008)..

⁴⁴⁹ International Covenant on Civil and Political Rights, December 16, 1966, 999 U.N.T.S. 171, art. 26; International Covenant on Economic, Social and Cultural Rights, December 16, 1966, 993 U.N.T.S. 3, art. 2(2).

against women in all areas⁴⁵⁰. In the IDP context, Principle 4 of the GPID affirms that they shall enjoy their rights “*without discrimination of any kind*” highlighting that displacement status can never be a justification for exclusion from justice⁴⁵¹.

In practice, non-discrimination in access to justice means more than the absence of formal legal barriers. It requires proactive measures to address structural obstacles that can prevent displaced persons from exercising their rights. These include bringing justice mechanisms closer to isolated IDP settlements, by establishing mobile courts or circuit hearings so that affected populations can participate in judicial proceedings. It also means providing free legal aid or interpretation services, so that linguistic and financial limitations do not prevent displaced persons from exercising their rights. Further measures also include granting non-discriminatory access to civil documentation needed for filing claims, even when they have been lost, including accepting alternative forms of proof for restitution. Moreover, judges, lawyers, and administrative officials should be specifically trained to recognize and counter prejudice against displaced populations, ensuring that justice is delivered impartially.

Lastly, IDPs rely on a wider set of legal protection that come directly from international humanitarian law, human rights law, and regional human rights systems. These bodies of law operate in parallel and set both the substantive rights and tools that make access to justice possible in situations of displacement.

International Humanitarian Law is particularly relevant where displacement results from armed conflict, as it draws directly from the Geneva Conventions and their Additional Protocols. Common Article 3(1)(d) explicitly requires that civilians, including those displaced, retain judicial guarantees, with all decisions taken by a regularly constituted and impartial court, even in non-international armed conflicts⁴⁵². In practice, however, conflict-affected areas often lack functioning

⁴⁵⁰ International Convention on the Elimination of All Forms of Racial Discrimination, December 21, 1965, 660 U.N.T.S. 195; Convention on the Elimination of All Forms of Discrimination against Women, December 18, 1979, 1249 U.N.T.S. 13.

⁴⁵¹ United Nations, Guiding Principles on Internal Displacement, UN Doc. E/CN.4/1998/53/Add.2 (11 February 1998), Principle 4.

⁴⁵² Geneva Conventions of 12 August 1949, Common art. 3.

courts, making the enforcement of IHL dependent on post-conflict justice mechanisms, transitional justice processes, or oversight by international bodies⁴⁵³.

International Human Rights Law applies at all times, in peace, during armed conflict, and in post-conflict recovery, and therefore it provides a constant source of protection for internally displaced persons. Core instruments such as the ICCPR and the ICESCR, that are directly relevant to access to justice, including equality before the law, the right to a fair trial, remain in force even when states invoke emergency powers as they are non-derogable⁴⁵⁴. In the context of IDPs, continuity is critical. Displacement often makes it impossible to access legal representations and the courts themselves. Therefore, IHRL provides the legal basis to demand measures that address these obstacles. It also mandates states to investigate violations linked to displacement, from arbitrary detention to denial of essential services.

Lastly, regional human rights systems can offer additional, and sometimes more accessible, options for reparation when domestic remedies are ineffective. In Africa, the *Kampala Convention* explicitly obliges States to provide IDPs with effective remedies, including restitution and compensation⁴⁵⁵. Furthermore, the African Commission on Human and Peoples' Rights has also applied provisions from the African Charter, including the one on fair trial and the right to property, to displacement situations, further expanding the scope of the *Kampala Convention*⁴⁵⁶.

For IDPs, these three overlapping legal regimes are not repetitive, they are complementary. As the ICJ affirmed in its Advisory Opinions on Nuclear Weapons (1996), international human rights law continues to apply in armed conflict alongside IHL, with the two bodies of law mutually reinforcing each other⁴⁵⁷.

⁴⁵³ Megan Bradley, "Justice, Reconciliation, and Ending Displacement: Legal Empowerment and Displaced Populations in Transitional Justice Processes," *Refugee Survey Quarterly* 35, no. 4 (2016)

⁴⁵⁴ ICCPR, art. 4; Human Rights Committee, *General Comment No. 29: States of Emergency (Article 4)*, CCPR/C/21/Rev.1/Add.11 (2001).

⁴⁵⁵ African Union, *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (Kampala Convention), October 23, 2009, art. 9.

⁴⁵⁶ Nsongurua J. Udombana, "The African Commission on Human and Peoples' Rights and the Development of Fair Trial Norms in Africa," *African Human Rights Law Journal* 6, no. 2 (2006).

⁴⁵⁷ International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, ICJ Reports 1996, 226, para. 25.

Regional human rights bodies further reinforced this principle, for example, the African Commission in *Sudan Human Rights Organisation v. Sudan* (2009) combined provisions of the African Charter, a regional instrument, with IHL to address displacement in Darfur⁴⁵⁸. IHL sets minimum protections in conflict settings; IHRL ensures those protections continue in peacetime and in non-conflict displacement; and regional systems can provide binding provisions when domestic remedies fail⁴⁵⁹. The challenge lies in ensuring that these standards are not only recognized on paper but are operationalized through accessible procedures, legal aid, and enforcement mechanisms that displaced persons can realistically use. Without such translation into practice, the protections offered by these regimes risk remaining aspirational rather than effective.

3.2.2. The Role of International Organizations in Justice Reform

In situations of internal displacement, the same crises that force people from their homes often destroy domestic justice systems in ruins. Court buildings may be destroyed, judges and lawyers threatened or displaced, and laws undermined by political interference. Without functioning justice institutions, displaced people are left without protection or a way to claim their rights. Justice reform is therefore essential to restore the rule of law, rebuild trust, and ensure that IDPs can access fair remedies. In these contexts, international organizations (play a critical role, they do not aim to replace national systems, but to help rebuild them, provide technical expertise, and uphold minimum standards until local institutions are back in place⁴⁶⁰.

⁴⁵⁸ African Commission on Human and Peoples' Rights, *Sudan Human Rights Organisation & Centre on Housing Rights and Evictions (COHRE) v. Sudan*, Communications Nos. 279/03 and 296/05, Decision of 27 May 2009.

⁴⁵⁹ Cordula Droege, "The Interplay between International Humanitarian Law and International Human Rights Law in Situations of Armed Conflict," *Israel Law Review* 40, no. 2 (2007); Françoise J. Hampson, "The Relationship between International Humanitarian Law and Human Rights Law from the Perspective of a Human Rights Treaty Body," *International Review of the Red Cross* 90, no. 871 (2008)

⁴⁶⁰ United Nations Development Programme (UNDP), *Strengthening the Rule of Law in Crisis-Affected and Fragile Situations: Global Programme Annual Report 2022* (UNDP, 2023).

Some International Organizations operate primarily through setting standards and oversight, shaping the normative environment in which justice reform takes place. At the global level, the United Nations Human Rights Council and the treaty bodies established under core human rights instruments, such as the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, issue recommendations that often include justice sector reforms relevant to IDPs. It's important to note that these bodies do not implement reforms directly, but their reports can influence legislative agendas and the design of technical assistance programmes. At the regional level, actors such as the African Commission on Human and Peoples' Rights or the Inter-American Commission on Human Rights act similarly, monitoring compliance with regional treaties and issuing decisions or reports that highlight barriers to justice for displaced populations⁴⁶¹.

In parallel, other organizations engage directly in the practical aspects of justice reform. The United Nations Development Programme (UNDP) has led efforts of rule of law programming, supporting judicial training, court reforms, and access-to-justice initiatives in post-conflict settings⁴⁶². The Office of the High Commissioner for Refugees (UNHCR), while primarily mandated to protect refugees, also plays a significant role in IDP contexts, particularly in advocating for legal frameworks that recognize needs specific to IDPs, and in supporting mobile courts or legal aid programmes in camps and host communities⁴⁶³. Similarly, the International Organization for Migration (IOM) contributes through community focused projects that often include mediation and dispute resolution, especially in return and reintegration phases⁴⁶⁴.

In contexts emerging from conflict or authoritarian regimes, transitional justice processes often intersect with justice reform. The Office of the High Commissioner for Human Rights (OHCHR) and the International Center for Transitional Justice

⁴⁶¹ African Commission on Human and Peoples' Rights, *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa* (2003).

⁴⁶² United Nations Development Programme (UNDP), *Strengthening the Rule of Law in Crisis-Affected and Fragile Situations: Global Programme Annual Report 2022* (UNDP, 2023).

⁴⁶³ UNHCR, *Global Report 2024* (UNHCR, 2025).

⁴⁶⁴ International Organization for Migration (IOM), *Community Stabilization Programming in Displacement Contexts* (IOM, 2021).

(ICTJ) have supported truth commissions, reparations programmes, and accountability assessments that address displacement related violations⁴⁶⁵. These processes work best when international organizations and humanitarian or development actors cooperate, ensuring that measures like prosecutions, and reparations are aligned with return, reintegration, and protection strategies for IDPs. This requires careful timing, as poorly timed criminal justice initiatives have, at times, restricted humanitarian access or discouraged displaced persons from returning⁴⁶⁶.

Moreover, justice reform also requires sustained investment, which is where financial institutions such as the World Bank and regional development banks become relevant. While they are not human rights bodies, these institutions have funded court infrastructure, digital case management systems, and legal aid programs in fragile and conflict-affected states⁴⁶⁷. Their involvement can be decisive in enforcing reforms initiated by humanitarian agencies.

While the contribution of international organizations to justice reform is significant, it is not without challenges. Firstly, there is a strong risk of imposing external models that do not align with local legal traditions or socio-political realities⁴⁶⁸. Coordination gaps between multiple organizations and national authorities can also undermine effectiveness. Overlapping mandates, competition for funding, and different institutional priorities may lead to fragmented interventions. Moreover, the sustainability of reforms is a persistent concern: once international funding or technical support ends, there is a risk of regressions if domestic institutions lack the resources or political will to maintain them. Finally, political resistance from governments can limit the effectiveness of reforms, particularly when reforms bring past violations to light.

⁴⁶⁵ International Center for Transitional Justice (ICTJ), *Displacement and Transitional Justice: Challenges and Opportunities* (ICTJ, 2017).

⁴⁶⁶ Roger Duthie, "Transitional Justice and Displacement," *International Journal of Transitional Justice* 5, no. 2 (2011); *Access to Justice in Situations of Forced Displacement* (SDG16+, 2023).

⁴⁶⁷ World Bank, *Tackling Forced Displacement as a Development Challenge* (World Bank, 2023)

⁴⁶⁸ Stephen Golub, "A House Without a Foundation," in *Promoting the Rule of Law Abroad: In Search of Knowledge*, edited by Thomas Carothers (Carnegie Endowment for International Peace, 2006).

International organizations play a critical role in justice reform in displacement-affected contexts. They offer normative authority, technical expertise, operational capacity, and financial resources that can help rebuild justice systems and make them more responsive to the needs of IDPs. Their interventions can address immediate protection gaps, integrate approaches focused on specific IDPs needs into national legal frameworks, and ensure accountability for past abuses. However, their effectiveness depends on coordination, credible local authorities, and the political will states.

CHAPTER 4

CASE STUDY: GEORGIA

1. Historical background: the 1990s and 2008 conflicts — 1.1. The South Ossetia and Abkhazia internal conflicts — 1.2. The Russian international conflict — 2. State Strategy for Internally Displaced Persons — 3. Rights of IDPs: Equality before the law — 3.1. Identity Documents and IDP Registration — 3.2. Access to the National Justice System — 3.3. Freedom of Movement and Choice of Residence — 3.4. Right to work, social security, land, and property — 4. International Criminal Court on Georgia — 4.1. Decision ICC-01/15 Authorizing the Investigation of the Situation in Georgia — 4.2. Forced Displacement and Denial of Return under Article 7 of the Rome Statute — 4.3. Closure of the Investigation and Current Status

1. Historical background: the 1990s and 2008 conflicts

1.1. The South Ossetia and Abkhazia internal conflicts

Georgia offers a particularly interesting case study for examining the protection of internally displaced persons under both international and national law. Since the early 1990s, the country has experienced two major waves of internal displacement: the first during the internal armed conflicts in the regions of Abkhazia and South Ossetia in the 1990s, and the second during the international armed conflict with the Russian Federation in August 2008. Together, these crises have left Georgia with one of the highest proportions of IDPs in their population, with approximately 299,000 IDPs as of the end of 2024, about 7.5% of the country's total population.⁴⁶⁹ Furthermore, displacement in the country has generated two clearly distinct social groups: those uprooted in the 1990s and those displaced in 2008, differing in

⁴⁶⁹ UNHCR, Protection of Internally Displaced Persons in Georgia: A Gap Analysis (UNHCR, 2009); Internal Displacement Monitoring Centre. *Georgia: Country Information*. IDMC for updated data see <https://www.internal-displacement.org/countries/georgia/>

conflict origins, demographics, and the policy frameworks governing their treatment⁴⁷⁰.

The Georgian case is also notable for the intersection between national policy and international justice mechanisms. As a matter of fact, in 2016, the International Criminal Court (ICC) authorized an investigation into alleged war crimes and crimes against humanity committed during the 2008 conflict, including the forcible displacement of civilians and the denial of the right of return⁴⁷¹. The combination of a protracted displacement situation governed by domestic strategies, alongside the involvement of the ICC, makes Georgia an especially relevant case for applying the previously analyzed IDP framework.

In order to understand the relevance of the Georgian context, it's important to analyze its historical background. On 9 April 1991, Georgia declared independence from the Soviet Union, during a time of political instability and economic collapse. Its population was ethnically diverse: while ethnic Georgians formed the majority, the regions of Abkhazia and South Ossetia were home to minority communities, with their own languages, cultures, and historical claims to autonomy. In Abkhazia, ethnic Abkhaz shared the territory with Georgian, Armenian, and Russian communities. Similarly, in South Ossetia, the Ossetian population, closely related by language and cultural traditions to North Ossetia in the Russian Federation, shared the region with a significant number of ethnic Georgians⁴⁷².

During the late Soviet period, Moscow pursued a policy of ethnic territorialization, establishing territorially autonomous units organized according to the predominant ethnic composition of the population. This approach, combined with the rising politicization of identity, strengthened nationalist movements in both Abkhazia and

⁴⁷⁰ Svante E. Cornell, *Small Nations and Great Powers: A Study of Ethnopolitical Conflict in the Caucasus* (RoutledgeCurzon, 2001).

⁴⁷¹ ICC, Decision on the Prosecutor's Request for Authorization of an Investigation, ICC-01/15 (27 January 2016).

⁴⁷² Hazar Ege Gürsoy Erdenay, *Georgian Internally Displaced People: The Formation of a Social Identity* (Cham: Palgrave Macmillan, 2024).

South Ossetia⁴⁷³. While these autonomous territories were originally meant to manage diversity within the Soviet federation, they later provided the ideological basis for the separatist movements.

As a matter of fact, by the late 1980s, while the central soviet authority weakened, both Abkhaz and South Ossetian leaders were pressing for greater autonomy, in some cases preferring to remain under Moscow's authority rather than being governed from Tbilisi⁴⁷⁴. At the same time, in the Georgian capital, nationalist movements rose against Soviet repression and called for independence and full control over the republic's territory⁴⁷⁵. The clash between these opposing objectives, against a backdrop of economic decline and political instability, set the stage for the violent conflicts that followed.

In September 1990, the South Ossetian regional council announced the creation of the "South Ossetian Soviet Democratic Republic", declaring its loyalty to Moscow. The Georgian authorities rejected the declaration as illegal, and tensions escalated when the South Ossetian authorities held their own parliamentary elections in December. On 11 December 1990, the Georgian Supreme Soviet responded by abolishing the region's autonomous status, a move that marked a decisive break in relations⁴⁷⁶.

This political clash rapidly escalated into armed conflict between Georgian government forces and South Ossetian forces, with involvement of Russian troops stationed in the region. Fighting was concentrated around the area of Tskhinvali, and was marked by sieges, the destruction of villages, and civilian flight. Both parties' armed forces engaged in tactics aimed at controlling key transport routes, leading to the isolation of many populated centres and the cutting from essential

⁴⁷³ Nigar Torun, "Soviet Nationality Policy: Impact on Ethnic Conflict in Abkhazia and South Ossetia," *Karadeniz Arařtırmaları* 18, no. 70 (2021).

⁴⁷⁴ *The Princeton Encyclopedia of Self-Determination*, s.v. "Georgia: Abkhazia and South Ossetia," last modified 2012, <https://pesd.princeton.edu/node/706>.

⁴⁷⁵ Svante E. Cornell, *Small Nations and Great Powers: A Study of Ethnopolitical Conflict in the Caucasus* (RoutledgeCurzon, 2001)

⁴⁷⁶ *Ibid.*

supplies⁴⁷⁷. Human Rights Watch reported that raids on villages, indiscriminate shelling and the burning of essential infrastructures were often used as techniques to depopulate areas and alter the ethnic composition of contested zones⁴⁷⁸. During the conflict, separatist forces received support from the Soviet military, as Russian troops stationed locally intervened, further complicating later ceasefire negotiations⁴⁷⁹.

By June 1992, a ceasefire was established, as the Sochi Agreement brought an end to hostilities. The agreement created a Joint Peacekeeper Force, composed by Georgian, Russian, and Ossetian contingents. Although open hostilities ceased, South Ossetia, by then the self-proclaimed Republic of South Ossetia, remained under the control of separatist authorities, supported by Russia, but lacking international recognition⁴⁸⁰.

At the end of the conflict 60,000 people were displaced: the majority were ethnic Georgians leaving South Ossetia, while thousands of ethnic Ossetians fled into North Ossetia in the Russian Federation⁴⁸¹. Humanitarian reports note that many of those displaced in the early 1990s came from rural communities, a factor that later influenced their economic survival strategies and complicated integration into urban settings. As a matter of fact, rural IDPs often faced limited employment opportunities, loss of agricultural livelihoods, and protracted reliance on state or humanitarian assistance, contributing to their prolonged economic and social marginalization⁴⁸².

The 1992 Agreement, however, did not bring stability to Georgia, as the country remained politically fractured, burdened by unresolved territorial disputes and

⁴⁷⁷ Silvia Serrano, “From Conflict to Autonomy: The Making of the South Ossetian De Facto State,” *Caucasus Survey* 1, no. 1 (2013).

⁴⁷⁸ Human Rights Watch, *World Report 1995: Georgia*, (Human Rights Watch, 1995).

⁴⁷⁹ Amnesty International, *Georgia’s Breakaway South Ossetia/Tskhinvali Region: Human Rights Under Russian Occupation*, EUR 56/3158/2020.

⁴⁸⁰ “Agreement on Principles of Settlement of the Georgian–Ossetian Conflict (Sochi Agreement),” June 24, 1992, United Nations Peacemaker.

⁴⁸¹ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Georgia: Briefing Notes on South Ossetia*.

⁴⁸² United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009; Hazar Ege Gürsoy Erdenay, *Georgian Internally Displaced People: The Formation of a Social Identity* (Cham: Palgrave Macmillan, 2024).

unable to assert control over several regions. In Abkhazia, tensions between separatist forces and the central government continued to escalate, until July 1992, when the Abkhaz Supreme Soviet declared its sovereignty⁴⁸³. In August 1992, Georgian forces entered the region via the Gali District, officially to secure transport routes and free hostages taken by the separatist armed forces. Abkhaz authorities viewed this as an invasion, and armed clashes ensued⁴⁸⁴.

Over the following months separatist forces, backed once again by Russia, gradually gained control. By late September they conquered Sukhumi, forcing Georgian civilians to flee⁴⁸⁵. The fall of the city marked a turning point in the war and was followed by widespread violence against the ethnic Georgian population, documented by the UN and OSCE as part of a campaign of ethnic cleansing⁴⁸⁶.

International involvement began during the later stages of the conflict. On 27 July 1993, the Government of Georgia and Abkhaz authorities signed a ceasefire agreement in Gudauta⁴⁸⁷. In early August, the UN Security Council authorized Resolution 858, establishing the United Nations Observer Mission in Georgia (UNOMIG), with a mandate to monitor the ceasefire, investigate violations and report to the Secretary General⁴⁸⁸. Negotiations for a more stable peace continued under the UN leadership, with Russian mediation, and the participation of the Conference on Security and Cooperation in Europe (CSCE). Consultations resulted in the *Declaration on Measures for a Political Settlement of the Georgian–Abkhaz Conflict*, signed on 4 April 1994, further reaffirming the parties commitment to the non-use of force⁴⁸⁹.

⁴⁸³ George Hewitt, *Discordant Neighbours: A Reassessment of the Georgian–Abkhazian and Georgian–South Ossetian Conflicts* (Brill, 2013).

⁴⁸⁴ United Nations, *Report of the Secretary-General on the Situation in Abkhazia, Georgia*, S/26250, July 30, 1993.

⁴⁸⁵ Human Rights Watch, *Georgia/Abkhazia: Violations of the Laws of War and Russia's Role in the Conflict*, March 1995.

⁴⁸⁶ Organization for Security and Co-operation in Europe (OSCE), *Budapest Summit Declaration*, December 6, 1994; United Nations, *Report of the Secretary-General on the Situation in Abkhazia, Georgia*, S/26795, October 12, 1993.

⁴⁸⁷ United Nations, *Report of the Secretary-General on the Situation in Abkhazia, Georgia*, S/26250, July 30, 1993.

⁴⁸⁸ United Nations Security Council, *Resolution 858 (1993)*, S/RES/858 (1993), August 24, 1993.

⁴⁸⁹ United Nations, *Declaration on Measures for a Political Settlement of the Georgian/Abkhaz Conflict*, April 4, 1994.

These steps set the stage for the signing, on 14 May 1994, of the *Moscow Agreement on a Ceasefire and Separation of Forces*. The agreement reinforced the cessation of hostilities and introduced two key security measures: the creation of a Security Zone free of armed forces and heavy weapons; and the establishment of a Restricted Weapons Zone on both sides of the ceasefire line. Furthermore, it called for the deployment of a Commonwealth of Independent States (CIS) peacekeeping force, composed mainly of Russian troops, to monitor compliance, with UNOMIG verifying implementation⁴⁹⁰.

In addition to the security concerns, the Agreement contained humanitarian provisions to address the mass displacement caused by the conflict. An estimated 250,000 people, predominantly ethnic Georgians, were expelled from Abkhazia in what has been widely described as ethnic cleansing, and both parties committed to facilitate safe, voluntary, and dignified return of IDPs to their home, especially focusing on the Gali region⁴⁹¹.

Although the Moscow Agreement established a formal ceasefire, the situation in the Gali district remained unstable. Following the cessation of hostilities thousands of ethnic Georgians had returned to the area, oftentimes with no adequate safeguards, and were exposed to harassment and violence. In May 1998, renewed fighting broke out in the Gali district of Abkhazia between Georgian groups and Abkhaz forces. Although a new ceasefire was reached by the end of the month, the clashes severely undermined confidence in the Moscow Agreement framework and exposed the limitations of the CIS peacekeeping and the UNOMIG mission, delaying negotiations on refugee return for years⁴⁹².

This violence displaced an estimated 30,000 people, many of whom had already attempted to return to their homes in the previous years. Ongoing insecurity, the

⁴⁹⁰ United Nations, *Agreement on a Cease-Fire and Separation of Forces*, S/1994/583, May 17, 1994.

⁴⁹¹ United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*, July 2009; Amnesty International. *In the Waiting Room: Internally Displaced People in Georgia*. Amnesty International Publications, 2010.

⁴⁹² United Nations, *Report of the Secretary-General Concerning the Situation in Abkhazia, Georgia*, UN Doc. S/1998/497 (17 June 1998).

presence of landmines, and targeted attacks forced them once again into displacement, reinforcing the cycle of return and renewed displacement⁴⁹³.

It is important to note that, in the absence of a comprehensive framework for the protection of internally displaced persons, the principal legal instrument during the early years of displacement was the *Law of Georgia on Internally Displaced Persons – Persecuted*, adopted in 1996. This act formally recognized IDP status and clarified rights and entitlements, including financial assistance, access to education and healthcare, and the right to temporary accommodation. While fundamental in establishing a legal basis for protection, the law mainly focused on immediate emergency aid and treated all IDPs the same, with no distinction between different needs or vulnerability. It did not address the structural challenges of prolonged displacement, such as restoring livelihood, or providing permanent housing, leaving these issues to be handled by local authorities and humanitarian actors⁴⁹⁴.

1.2. The Russian international conflict

The early 2000s were a decisive phase in Georgia's modern history, as escalating tensions with the Russian Federation set the stage for the largest displacement crisis since the 1990s. Following Vladimir Putin's election in 2000, relations between the two countries further deteriorated, as Moscow adopted more assertive policies in the Soviet space. At the same time, in Georgia, The Rose Revolution of 2003 led to the election of pro-western president Mikheil Saakashvil, who was committed to restoring central authority over the regions of Abkhazia and South Ossetia and accelerating Georgian integration with Euro-Atlantic institutions⁴⁹⁵.

In 2004, tensions in South Ossetia further escalated as the Georgian government intensified control over the area, shutting down smuggling routes. Tbilisi accused

⁴⁹³ United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009; Chaikhana Media, "Six Days in May: A Forgotten War"; United Nations High Commissioner for Refugees (UNHCR), *Background Paper on Refugees and Asylum Seekers from Georgia*, October 1999.

⁴⁹⁴ Parliament of Georgia, *Law of Georgia on Internally Displaced Persons – Persecuted*, June 28, 1996.

⁴⁹⁵ Commission on Security and Cooperation in Europe (CSCE), *Georgia's Rose Revolution*, February 2004.

Russian peacekeepers of siding with the separatist forces, and while no displacement occurred during this period, the clashes deepened mistrust, and weakened the conflict management mechanisms established in the 90s⁴⁹⁶.

In early August 2008, clashes intensified in South Ossetia. On 7 August, Georgian forces launched an operation to “restore constitutional order” in the region’s capital. Russia responded with a large-scale military intervention, claiming it was acting to protect its peacekeepers and civilians. The conflict lasted five days and spread beyond the disputed region. Fighting took place in Abkhazia, and Russian air strikes advanced beyond the conflict zones, occupying part of central Georgia. A ceasefire, sponsored by the European Union, was finally signed on August 12⁴⁹⁷. However, on 26 August 2008, Russia recognized Abkhazia and South Ossetia as independent states, a move rejected by Georgia and most of the international community, effectively closing the possibility of return for many IDPs⁴⁹⁸.

The humanitarian impact was severe: civilian infrastructures, such as homes, schools and hospitals, were destroyed, and entire villages where ethnic Georgians lived were burned down. UNHCR estimates that around 192,000 people were displaced during the conflict, and while most attempted to return within weeks, approximately 38,000 people, mostly ethnic Georgians from South Ossetia, remained displaced long term⁴⁹⁹. Many lost not only their homes but also agricultural land and livestock, undermining their livelihoods. It's noteworthy that this second wave of displacement, included a higher percentage of urban IDPs, compared to the rural populations displaced in the 90s, which influenced the speed at which authorities provided housing and economic opportunities⁵⁰⁰.

⁴⁹⁶ International Crisis Group, *Georgia: Avoiding War in South Ossetia*, Europe Report No. 159, November 26, 2004.

⁴⁹⁷ Parliamentary Assembly of the Council of Europe (PACE), *Resolution 1633 (2008) on the Consequences of the War between Georgia and Russia*, October 2, 2008.

⁴⁹⁸ Ministry of Foreign Affairs of Georgia, “Statement on the Recognition of Abkhazia and South Ossetia by the Russian Federation,” August 26, 2008.

⁴⁹⁹ Human Rights Watch, *Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, January 2009.

⁵⁰⁰ Ayşe Erdenay, “Post-Conflict Housing and Livelihood Strategies of Internally Displaced Persons in Georgia,” *Journal of Refugee Studies* 28, no. 4 (2015).

As for international involvement, on 12 August 2008, French president Sarkozy, successfully negotiated the European Six-Point Ceasefire Agreement, stopping active hostilities between Georgia and the Russian Federation. During negotiations, NATO expressed support for Georgia, but did not intervene militarily. Similarly, the UN Security Council remained paralyzed by Russian veto power. As part of the ceasefire's implementation, the European Union Monitoring Mission (EUMM) was established in October 2008 to control implementation and monitor the security situation. However, the mission has been consistently denied access to Abkhazia and South Ossetia by the Russian Federation acting as a *de facto* authority in control of the territories, limiting its ability to assess conditions in the areas most affected by the conflict⁵⁰¹.

On the field, humanitarian agencies, such as UNHCR, the ICRC, and numerous NGOs, carried out emergency operations, delivering shelter, food, and medical assistance to the displaced population. During this phase, the speed and coordination of this response differed significantly from the slower, fragmented assistance provided during the displacement crises of the 1990s⁵⁰².

By 2009 Georgia was hosting more than 262,000 registered IDPs from both the 1990s and 2008 displacement waves⁵⁰³. Many were accommodated in collective centers repurposed from public buildings or in newly constructed settlements. Furthermore, loss of access to farmland near the border further eroded livelihoods, and “borderisation”, meaning the installation of fences, barbed wire, and checkpoints by Russian authorities, progressively restricted movement, cutting off IDPs and returnees from land, markets, and family networks⁵⁰⁴. Despite these housing efforts, displaced people continued to face significant obstacles in securing sustainable livelihoods, reclaiming property, and achieving full social reintegration.

⁵⁰¹ European Union Monitoring Mission in Georgia (EUMM), “About EUMM” see <https://eumm.eu>

⁵⁰² Amnesty International, *In the Waiting Room: Internally Displaced People in Georgia Still Waiting for Durable Solutions*, EUR 56/003/2010 (Amnesty International, 2010).

⁵⁰³ Internal Displacement Monitoring Centre (IDMC), *Georgia: IDP Figures Analysis*, 2019.

⁵⁰⁴ United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009; The Foreign Policy Centre. “Georgia’s Responses to ‘Borderisation’.” Last modified February 26, 2020, <https://fpc.org.uk/georgias-responses-to-borderisation/>

The consequences of the 2008 war were not only humanitarian but also legal. More than a decade later, in 2021, in *Georgia v. Russia (II)* the European Court of Human Rights delivered a critical judgment on the aftermath of the conflict. The Court distinguished between the active phase of hostilities in early August 2008, when it found Russia did not exercise effective control and thus could not be held responsible under the Convention; and the following occupation period, during which Russia was held responsible for conditions in South Ossetia and Abkhazia⁵⁰⁵. In this second phase, the Court identified a pattern of serious human rights violations attributable to Russia⁵⁰⁶. Violations included the killing of civilians, arbitrary detention, destruction and looting of homes, violations of property rights and the denial of return for displaced people⁵⁰⁷. The Court further highlighted Russia's failure to conduct effective and impartial investigations, establishing the country's international responsibility for widespread abuses against Georgian civilians.

The post-2008 period marked a shift in Georgia's State Strategy for IDPs. Building on the Law of Georgia on Internally Displaced Persons – Persecuted of 28 June 1996, which had established a framework in which rights and benefits were granted solely on the basis of formal IDP status, amendments moved toward a more needs-based approach, prioritizing the most vulnerable regardless of status⁵⁰⁸. The adoption of the 2007 State Strategy for IDPs was facilitated by intense levels of international attention and donor funding in the aftermath of the 2008 war. Successive Action Plans adopted starting from 2009 further emphasized durable housing solutions, livelihood support, and social integration⁵⁰⁹.

⁵⁰⁵ *Georgia v. Russia (II)* [GC], no. 38263/08, Judgment of 21 January 2021, European Court of Human Rights, paras. 126–137.

⁵⁰⁶ *Ibid.* paras. 200–222.

⁵⁰⁷ European Convention on Human Rights, Articles 2, 3, 5, 8, 13; Protocol No. 1, Article 1; Protocol No. 4, Article 2.

⁵⁰⁸ *Law of the Republic of Georgia on Internally Displaced Persons – Persecuted*, No. 335-II, 28 June 1996; World Bank, *Georgia: Transitioning from Status to Needs-Based Assistance for IDPs*, February 2016.

⁵⁰⁹ *Georgia: State Strategy for Internally Displaced Persons - Persecuted*, 2 February 2007; Government of Georgia, *IDP State Strategy Action Plan 2009*; Government of Georgia, *Resolution No. 127 on Approval of the 2015–2016 Action Plan for the State Strategy for Internally Displaced Persons – IDPs*, 4 February 2015.

The contrast between the neglect that characterized the 1990s displacement and the rapid response to the 2008 crisis has since become a recurring theme in both governmental evaluations and independent assessments. Many IDPs uprooted during the conflicts in the 90s perceived the newer displaced populations as receiving preferential treatment, especially in the allocation of new housing and targeted assistance, which fueled feelings of neglect and inequality. As a matter of fact, the earlier group had to endure years of inadequate support before similar programmes were introduced⁵¹⁰.

Over time, however, donor engagement declined, leaving Georgia to face the financial burden of integration. With return remaining impossible, and socio-economic marginalization persisting, achieving durable solutions remains a central yet unresolved challenge. The Georgian displacement experience is thus characterized by protracted humanitarian need, an evolving legal framework, and shifting levels of international engagement. The interaction between conflict dynamics, humanitarian response, socio-economic impacts, and perceptions of equity offers a strong basis for examining how domestic and international law intersect in the protection of IDPs.

The Georgian context also highlights the way in which displacement policy is shaped not only by legal obligations, but also by political context, donor priorities, and the practical limitations of unresolved territorial disputes. As a matter of fact, the sharp differences in the 1990s and 2008 displacement waves, in their causes and the assistance they received, highlight the decisive role of timing, resource allocation and policy design in determining whether displacement remains a temporary emergency or becomes a long-term issue. The central challenge then, has been to safeguard the rights of all IDPs while operating within the limitations created by the unresolved conflicts in Abkhazia and South Ossetia, and by shifting levels of international attention.

⁵¹⁰ Ayşe Erdenay, “Post-Conflict Housing and Livelihood Strategies of Internally Displaced Persons in Georgia,” *Journal of Refugee Studies* 28, no. 4 (2015).

This background provides a strong foundation for a closer examination of the *State Strategy for Internally Displaced Persons – Persecuted* and its implementation of measures designed to address the needs of both displacement waves, and for evaluating their compliance with Georgia’s obligations under international humanitarian and human rights law.

2. State Strategy for Internally Displaced Persons

The State Strategy for Internally Displaced Persons was adopted by the Government of Georgia on 2 February 2007, and it represented the first comprehensive policy framework for addressing the needs of the country’s large IDP population⁵¹¹. Until then, IDP policy had been fragmented and focused on short-term humanitarian relief rather than long-term solutions. The Strategy then emerged from both domestic needs, such as the need to move beyond emergency assistance to those displaced in the 1990s, and from international advocacy, particularly from UNHCR and OCHA, for an approach focused on durable solutions.

The 2007 Strategy was developed in consultation with international organizations and civil society and aligned with the UN Guiding Principles on Internal Displacement⁵¹². Mirroring the GPID, Chapter III of the Strategy sets out a dual approach: first creating conditions for the safe return of IDPs to their places of origin, and secondly, supporting dignified living conditions and integration for those unable or unwilling to return⁵¹³.

This marked a clear shift from the 1996 *Law of Georgia on Internally Displaced Persons – Persecuted*, which had mainly focused on formal recognition of IDP status, rather than structural challenges of protracted displacement. However, the 2007 Strategy was a policy instrument and not a legislative binding act. This meant it could not be implemented on its own: its measures had to fit within the existing

⁵¹¹ Government of Georgia, *State Strategy for Internally Displaced Persons – Persecuted*, Presidential Decree No. 47, 2 February 2007.

⁵¹² United Nations. *Guiding Principles on Internal Displacement*. UN Doc. E/CN.4/1998/53/Add.2. 11 February 1998.

⁵¹³ Government of Georgia, *State Strategy for Internally Displaced Persons – Persecuted*, Presidential Decree No. 47, 2 February 2007. Chapter 3.

legal framework, and in some cases, this required changes to legislation to give the Strategy's provisions legal force and make them enforceable.

One of the most significant steps in this process came with the 2014 amendments to the 1996 law. The reform strengthened the needs-based approach, allowing assistance to be given on the basis of vulnerability, and not by date of displacement; it also refined the legal definition of IDP to clarify ambiguities, thanks to the clear framework established by the Guiding Principles of 1998. The amendments also revised existing benefit structures, introducing targeted social assistance and housing allocation aligned with the 2007 Strategy; as well as strengthening property restitution procedures, and measures to support livelihoods and social integration⁵¹⁴.

The process of aligning the Strategy with the legal framework had, however, begun earlier. The August 2008 war and the resulting new wave of displacement created a sense of urgency. In May 2009, the Government adopted amendments to the Strategy to address the needs of the 2008 displaced, expand housing programmes, and accelerate integration measures. The revised Strategy placed greater emphasis on durable housing solutions and livelihood support, recognizing that for many IDPs, particularly those from South Ossetia and the Kodori Valley, return was not a realistic option⁵¹⁵.

The fundamental objective of the *State Strategy for Internally Displaced Persons* is to ensure that IDPs enjoy the same rights and freedoms as other citizens, in alignment with Georgia's Constitution and its international obligations. This goal is carried out through four main pillars, each reflecting Georgia's domestic policies and consistent with the standards in the *UN Guiding Principles on Internal Displacement*.

⁵¹⁴ *Law of Georgia on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia*, No. 3351-RS, adopted 6 February 2014, entered into force 1 March 2014, as amended, Legislative Herald of Georgia.

⁵¹⁵ Government of Georgia, *IDP Action Plan for the Implementation of the State Strategy for Internally Displaced Persons*, 28 May 2009.

First of all, mirroring Principles 28-30 of the GPID, the Strategy requires the Government to create conditions for voluntary, safe, and dignified return of displaced populations. It also stresses that IDP status should be maintained until a durable solution, whether return, local integration, or settlement elsewhere in the country, is achieved⁵¹⁶. The focus on maintaining legal status, reflects lessons learned from the 1990s displacement crises, where premature termination had weakened protection. In practice, however, political and security conditions in Abkhazia and South Ossetia have severely limited return prospects⁵¹⁷.

The Strategy's second pillar focuses on the integration of IDPs into local communities, ensuring equal access to education, healthcare, and social services, and introducing measures to address discrimination. This aligns with Principle 29(1) of the UN Guiding Principles, which affirms that IDPs should not be discriminated against in the enjoyment of rights and freedoms⁵¹⁸. In practice, integration measures have included targeted social programmes, occupational training courses, and community initiatives designed to strengthen social cohesion and encourage interaction between IDPs and host communities. Despite these efforts, field research such as the one carried out by the Caucasus Research Resource Centres (CRRC), indicates that integration outcomes remain uneven. Many participants reported facing discrimination, and limited opportunities to participate in local decision making⁵¹⁹. These findings highlight the gap between policy and lived experience, calling for approaches that meaningfully involve IDPs in shaping the programmes aimed at supporting their integration.

The third pillar, focusing on adequate housing, it's the Strategy's most ambitious and resource-demanding element, and a key factor in determining the quality of life of IDPs. It is implemented through three main modalities: rehabilitation of existing

⁵¹⁶ United Nations. *Guiding Principles on Internal Displacement*. UN Doc. E/CN.4/1998/53/Add.2. 11 February 1998; Government of Georgia, *State Strategy for Internally Displaced Persons – Persecuted*, Presidential Decree No. 47, 2 February 2007.

⁵¹⁷ UNHCR, *Protection of Internally Displaced Persons in Georgia: A Gap Analysis* (UNHCR, 2009); Amnesty International, *In the Waiting Room: Internally Displaced People in Georgia Still Waiting for Durable Solutions*, EUR 56/003/2010 (Amnesty International, 2010).

⁵¹⁸ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2, 11 February 1998, Principle 29.

⁵¹⁹ Caucasus Research Resource Centers (CRRC), *Political Engagement of Internally Displaced Persons (IDPs) in Georgia* (CRRC, 2023).

collective centres, allocation and construction of new housing units, and financial support for private housing. Following the 2008 conflict, the housing programme was significantly expanded, as donor support allowed for the construction of new settlements for the newly displaced. Reforms included targeted housing allocation mechanisms, as well as stronger property restitution processes. The changes directly mirror the GPID, especially principle 18 on appropriate shelter, principle 21 on the protection of property rights and, once again, principle 28 on the obligation to create conditions for durable solutions⁵²⁰. The reformed strategy also reflects established international instruments, such as the Pinheiro Principles on Housing and Property Restitution, which calls for accessible and non-discriminatory restitution mechanisms⁵²¹.

The *IDP Housing Strategy* adopted in 2017 further implemented these commitments by setting clear targets for durable housing solutions, establishing procedures for updating socio-economic data on IDPs, and introducing monitoring mechanisms to track progress annually⁵²². It also emphasized the importance of participation in planning, encouraging consultation with IDPs on settlement location and design, an approach consistent with Principle 29(1) of the GPID⁵²³.

While these measures addressed urgent shelter needs, by attempting relocation from temporary centres to permanent housing and reducing dependency on state funding, reports by international actors note that durable solutions are still out of reach. As a matter of fact, assessments by Amnesty International, the Internal Displacement Monitoring Centre (IDMC), and the Norwegian Refugee Council (NRC) have noted that many new settlements were built in remote areas, with limited access to employment, essential services and public life, undermining the integration goals

⁵²⁰ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2, Principles 18, 21, 28.

⁵²¹ United Nations, *Principles on Housing and Property Restitution for Refugees and Displaced Persons* (“Pinheiro Principles”), UN Doc. E/CN.4/Sub.2/2005/17, Principles 2 and 12; OHCHR, *Handbook on Housing and Property Restitution for Refugees and Displaced Persons* (OHCHR, 2007).

⁵²² UN Office of the High Commissioner for Human Rights (OHCHR), *Georgia: IDP Housing Strategy* (OHCHR, 2017).

⁵²³ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2 (1998), Principle 29(1): “internally displaced persons ... shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.”

set out by the Strategy. These findings underscore the need to link housing with urban planning and livelihood support, so that relocation actually contributes to durable solutions and does not result in additional marginalization⁵²⁴.

Lastly, the fourth pillar, focusing on access to sustainable livelihoods, it's a core element of the Strategy's framework for durable solutions, recognizing that economic independence is essential for the long-term integration of IDPs. In line with Principle 18 of the *UN Guiding Principles on Internal Displacement*, which affirms the right of IDPs to an adequate standard of living, the Strategy seeks to remove barriers to employment⁵²⁵.

Georgia's *Strategy on the Provision of Internally Displaced Persons with Access to Livelihoods*, adopted in 2014, set out a four-year plan to improve the socio economic conditions of both IDPs and host communities. The 2014 Strategy was developed through consultations with displaced communities, civil society and international actors, and focused on specific barriers faced by Georgian IDPs, such as limited access to formal employment, credit, and supporting entrepreneurship and agricultural productivity. Key measures included occupational training aligned with local labour market needs, small business grant programmes, agricultural support initiatives, and job-matching services in cooperation with the State Employment Support Agency⁵²⁶. Furthermore, donor support also enabled the development of more innovative programs: UNDP's Self-Reliance Fund established cooperative farming initiatives; the NRC's implemented livelihoods projects to support women-led micro-enterprises; and OCHA's "New Approach"

⁵²⁴ Amnesty International, *In the Waiting Room: Internally Displaced People in Georgia* (Amnesty International, 2010); Internal Displacement Monitoring Centre (IDMC), *Georgia: IDP Figures Analysis* (IDMC, 2019); Norwegian Refugee Council (NRC), *Durable Housing Solutions for IDPs in Georgia* (NRC, 2014); Inter-Agency Standing Committee (IASC), *Framework on Durable Solutions for Internally Displaced Persons* (Brookings Institution, 2010).

⁵²⁵ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2, Principles 18.

⁵²⁶ Government of Georgia, *Strategy on the Provision of Internally Displaced Persons with Access to Livelihoods*, Governmental Decree No. 257, 13 February 2014.

linked housing relocation with job-matching services through the State Employment Support Agency⁵²⁷.

Despite these efforts, field research highlights that many Georgian IDPs still rely on informal support in order to meet their basic needs, such as remittance from abroad, and reciprocal support networks, as durable solutions and integration remain under-resourced⁵²⁸. Evaluation by the IDMC and CRRC further highlights those constraints, such as isolated settlements and limited transport infrastructure, contribute to persistent unemployment among the displaced population⁵²⁹.

The State Strategy's provisions can also be assessed in comparison with their compliance with international and European standards. Firstly, the strategy was developed referencing the Guiding Principles of 1998, and it mirrors several of the principles core elements: recognition of IDPs as citizens with equal rights; a dual focus on return and local integration; and the obligation of the state to provide protection and assistance without discrimination⁵³⁰.

From a European perspective, Georgia's policy is shaped by its membership in the Council of Europe and its commitments under the *European Convention on Human Rights* (ECHR). The European Court of Human Rights has addressed cases involving displacement from Abkhazia and South Ossetia, affirming the state's primary obligation to protect basic human rights such as family unity, and freedom of movement⁵³¹. Similarly, the Parliamentary Assembly of the Council of Europe has repeatedly called on Georgia to ensure adequate housing, livelihoods, and participation for IDPs, and to maintain the right of return as a central policy

⁵²⁷United Nations Development Programme (UNDP), *Georgia Self-Reliance Fund: Pilot Initiatives for IDP Livelihoods* (UNDP/OCHA, 2001); UN Office for the Coordination of Humanitarian Affairs (OCHA), "Georgia: New Approach to IDP Assistance," 2008; Norwegian Refugee Council (NRC), *Livelihoods Support for IDPs in Georgia* (NRC, 2015).

⁵²⁸ Conciliation Resources, *Survival Strategies of the Poor and Marginalised: A Study of IDP Livelihoods in Georgia* (Conciliation Resources, 2012).

⁵²⁹ Internal Displacement Monitoring Centre (IDMC), *Georgia: IDP Figures Analysis* (IDMC, 2019); Caucasus Research Resource Centers (CRRC), *Perceptions of IDP Integration in Georgia: Focus Group Report* (CRRC, 2011).

⁵³⁰ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2, 11 February 1998.

⁵³¹ European Court of Human Rights (ECtHR), *Case of Georgia v. Russia (II)*, Application No. 38263/08, Judgment of 21 January 2021 (Grand Chamber).

objective⁵³². As a matter of fact, the Strategy's housing and integration provision are consistent Recommendation (2006)6 of the Committee of Ministers, which mandated member states to adopt comprehensive strategies covering protection, assistance, and durable solutions⁵³³.

Comparison with international frameworks is fundamental when it comes to understanding the differences in the approach between the 1990s and 2008 displacement waves. As a matter of fact, by 2008 international standards on displacement had evolved, with the GPID being largely adopted by humanitarian actors. Similarly European institutions were stronger, and thus able to better monitor Georgia's compliance with human rights obligations. Still, as denoted by the UN Special Rapporteur, differences in treatment should be addressed by national policy, as inequality between displacement crises challenges the State Strategy's commitment to non-discrimination⁵³⁴.

Translating the State Strategy from policy to practice required a clear institutional framework and coordinated implementation mechanisms. Within this framework, lead responsibility was assigned by a central agency, namely the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (MRA). The ministry was established in 1996 as part of the Cabinet of Georgia and operated until 2018, when its responsibilities were redistributed among the Ministry of Regional Development and Infrastructure, the Ministry of Internal Affairs, and the Ministry of Labour, Health, and Social Affairs. As the lead agency for the implementation of the State Strategy for Internally Displaced Persons, it not only drafted policy, but also directly managed the national IDP registry, allocated housing in line with the Strategy, and coordinated assistance programmes⁵³⁵. Sector specific interventions were assigned to other ministries, such

⁵³² Parliamentary Assembly of the Council of Europe (PACE), *Resolution 1648 (2009): The Humanitarian Consequences of the War between Georgia and Russia*, 28 January 2009.

⁵³³ Council of Europe, Committee of Ministers, *Recommendation Rec (2006)6 of the Committee of Ministers to Member States on Internally Displaced Persons*, adopted 5 April 2006.

⁵³⁴ UN Human Rights Council, *Report of the Special Rapporteur on the human rights of internally displaced persons – Mission to Georgia*, A/HRC/31/54/Add.2, 2016, para. 37–39.

⁵³⁵ Government of Georgia, *Resolution No. 854 on Amending Resolution No. 47*, 4 December 2008; Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (MRA), *Annual Report 2017*.

as Labour, Health, and Social Affairs; Education and Science; and Agriculture, to ensure that IDPs needs were integrated into broader national policies.

As for coordination with international actors, it was institutionalized through the creation of the IDP Steering Committee, co-chaired by the MRA and UNHCR⁵³⁶. The committee was established in 2008, in the aftermath of the Russian conflict, and it provided a platform for ministries, donor agencies, and national and international NGOs to assess implementation progress, identify obstacles, and adopt corrective measures⁵³⁷. In the Georgian context, it served as more than just a coordination body: it was the principal way of addressing challenges coming directly from the field, such as delays in housing construction, and unresolved property restitution claims. These issues were reported by humanitarian organizations, and oftentimes directly by IDPs representatives, allowing for more specific solutions. However, field research by the IDMC and the Danish Refugee Council, found that while the Committee improved coordination between ministries and donors, cooperation with municipal authorities and direct IDP participation remained inconsistent, limiting the effectiveness of programmes⁵³⁸.

At the operational level, the State Strategy was implemented through a series of Action Plans, which translated its objectives into concrete steps, with timelines, responsible agencies, and budget allocations. The first Action Plan was adopted in 2009, and focused on urgent post conflict measures, as well as updating the national IDP registry to include the new wave of displacement⁵³⁹. The following 2011-2012 Plan consolidated emergency measures into more durable solutions: it introduced a clearer house allocation mechanism, expanded job training programmes and strengthened restitution procedures in line with the Pinheiro Principles⁵⁴⁰. The 2015

⁵³⁶ United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009.

⁵³⁷ UN Office of the High Commissioner for Refugees (UNHCR), *Georgia: UNHCR Global Appeal 2009 Update* (UNHCR, 2008).

⁵³⁸ Bolkvadze, Tamar. "Coordination and Participation in Georgia: What Worked and What Didn't." In *Global Report on Internal Displacement 2020 – Background Paper*, 4–6. IDMC, 2020.

⁵³⁹ Government of Georgia. *Decree No. 403 on Adoption of the Action Plan for the Implementation of the State Strategy for Internally Displaced Persons – IDPs during 2009–2010*, 28 May 2009.

⁵⁴⁰ Government of Georgia. *Resolution No. 1551 on Approval of the Action Plan for the Implementation of the State Strategy for Internally Displaced Persons – IDPs for 2011–2012*, 3 November 2011.

Action Plan shifted focus on socio-economic integration⁵⁴¹. It created the IDP Livelihoods Strategy, which included measures such as grants to help IDPs start their own enterprises and basic business training. In rural areas, the Strategy provided agricultural support by reducing cost on tools and material, providing expert advice, and strengthening connections to markets at both a local and regional level⁵⁴². After a two-year gap without a formally approved plan, the 2017-2018 Action Plan marked a renewed effort to address persistent gaps in IDP protection. It increased funding for housing in rural areas, introduced stronger needs-based assistance programmes, and focused on closing down unsafe collective centers, which were reported through the national hotline set up by the MRA⁵⁴³.

In addition to guiding implementation, the Action Plans served as a tool for coordination and donor alignment. As a matter of fact, by establishing clear national priorities, they provided a common framework that guided external funding toward shared goals, helping to prevent the fragmentation that can result from isolated projects. Donor alignment was further strengthened through joint reviews held by the IDP Steering Committee. These sessions brought together ministries, donor agencies, and humanitarian organizations to assess progress, and had significant practical impact. For example, in several instances they led to the reallocation of funds to settlements where IDPs reported limited access to water, transport or essential services, showing how coordination mechanisms could directly impact IDP assistance⁵⁴⁴.

Despite the progress achieved with legislative reform and Action Plans, international assessments have consistently identified areas where Georgia's response to internal displacement remains incomplete. First of all, return prospects remain limited. UNHCR's *Gap Analysis* of 2009 acknowledged that while the State

⁵⁴¹ Government of Georgia. *Resolution No. 127 on Approval of the Action Plan for the Implementation of the State Strategy for Internally Displaced Persons – IDPs for 2015–2016*, 4 February 2015.

⁵⁴² Government of Georgia, *Private Order No. 257 on Approval of the Strategy on the Provision of Internally Displaced Persons (IDPs) with Access to Livelihoods*, 13 February 2014.

⁵⁴³ Government of Georgia. *Resolution No. 174 on Approval of the 2017–2018 Action Plan for the Implementation of the State Strategy for Internally Displaced Persons – IDPs*, 30 March 2017.

⁵⁴⁴ Tamar Bolkvadze, "Coordination and Participation in Georgia: What Worked and What Didn't," in *Global Report on Internal Displacement 2020 – Background Paper* (IDMC, 2020).

Strategy affirms the right of IDPs to return to their homes in Abkhazia and South Ossetia, little progress has been made in creating conditions return. The unresolved conflict on the status of these territories continues to limit movement, making return practically impossible. As a matter of fact, the *de facto* authorities in Abkhazia deny return beyond the Gali district, citing security concerns. Even in areas where limited return has happened, UNHCR documented human rights violations, insecurity, and lack of access to essential services for returnees⁵⁴⁵.

Second, concerns remain over the quality and location of housing. Research by Amnesty International and by the CRRC found that oftentimes new settlements were located in remote areas with weak transport connections and limited access to employment, markets, and essential services⁵⁴⁶.

Furthermore, participation in decision-making remains limited. OHCHR noted that IDPs are rarely meaningfully involved in planning or allocation processes for housing, a gap that does not meet the participatory standards of the Guiding Principles on Internal Displacement⁵⁴⁷. Although consultations with IDPs have taken place, they have often been sporadic and centered on sharing information rather than enabling participants to actively influence decisions⁵⁴⁸. Without a structured framework for meaningful involvement, programmes risk failing to address real community needs and further weaken both the sense of ownership and the capacity for self-determination among displaced people.

Finally, concerns about sustainability have become increasingly prominent. Starting from 2012, donor funding has declined creating a gap that national budgets struggle to fill. As a matter of fact, without consistent external support the government faces challenges in maintaining housing and ensuring integration initiatives. The lack of funds not only limits new projects, but risks undermining

⁵⁴⁵United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009.

⁵⁴⁶ Amnesty International, *In the Waiting Room: Internally Displaced People in Georgia Still Waiting for Durable Solutions*, EUR 56/003/2010 (Amnesty International, 2010).

⁵⁴⁷ Office of the High Commissioner for Human Rights (OHCHR), *Submission by the Public Defender of Georgia and OHCHR to the Committee on Economic, Social and Cultural Rights: Right to Adequate Housing of Internally Displaced Persons in Georgia*, October 2017.

⁵⁴⁸ Caucasus Research Resource Centers (CRRC), *Political Engagement of Internally Displaced Persons (IDPs) in Georgia* (CRRC, 2023).

earlier achievement of the State Strategy, as reduced resources can slow progress and even reverse accomplishment⁵⁴⁹.

Taken together, these assessments underscore that while Georgia's State Strategy and Action Plans have provided concrete improvements, durable solutions require sustained political commitment, adequate resources, and stronger engagement with IDP communities.

3. Rights of IDPs: Equality before the law

The principle of equality before the law is central to the protection of internally displaced persons. It requires that IDPs enjoy the same legal status, procedural guarantees, and access to remedies as other citizens, without discrimination based on their displacement. Equality before the law is not only a formal guarantee of equal treatment, but also a positive obligation on governments to ensure that IDPs can fully exercise their rights, despite the vulnerabilities created by displacement.

At the domestic level, the Georgian Constitution guarantees equality and due process, as Article 11 affirms that everyone is equal before the law, without discrimination on any ground. Article 31 further reinforces the right to a fair trial and access to courts for all citizens⁵⁵⁰. In addition to these constitutional provisions, the 1996 *Law of Georgia on Internally Displaced Persons – Persecuted* (as amended in 2014) regulates the recognition of IDP status, registration, and entitlements, and provides the legal basis for state assistance⁵⁵¹.

These national guarantees must be read alongside Georgia's international obligations. The *UN Guiding Principles on Internal Displacement* affirm that IDPs are entitled to the same rights and freedoms as other citizens, that they must not be discriminated against on the basis of displacement, and that national authorities bear

⁵⁴⁹ United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009.

⁵⁵⁰ Constitution of Georgia, adopted 24 August 1995, as amended to 13 October 2017, arts. 11 and 31; Office of the United Nations High Commissioner for Human Rights (OHCHR). *Georgia – National Legislation on Equality*. OHCHR, 2010.

⁵⁵¹ *Law of Georgia on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia*, No. 3351-RS, adopted 6 February 2014, entered into force 1 March 2014, as amended, Legislative Herald of Georgia.

the primary duty to provide protection and assistance, including the right to restitutions⁵⁵². Similarly, under the *European Convention on Human Rights* (ECHR), Georgia is required to ensure the right to a fair trial, respect for private and family life, and the right to an effective remedy⁵⁵³. Furthermore, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) guarantees the right to work, social security, and an adequate standard of living, all of which are essential to the protection of IDPs⁵⁵⁴. This section therefore examines how Georgia ensures, or fails to ensure, these rights in practice. The focus is on rights directly connected to access to justice and legal protection, rather than on policy design.

3.1. Identity Documents and IDP Registration

Legal identity is the foundation upon which the enjoyment of all other rights depends. For internally displaced persons in Georgia, the ability to prove their status and identity is not only a requisite for accessing state assistance, but also for exercising civil, political, and socio-economic rights on an equal basis with other citizens. Without proper documentation, IDPs risk exclusion from justice, social protection, and property restitution mechanisms.

To begin with, the *Law of Georgia on Internally Displaced Persons* establishes the procedures for recognition of IDP status and the distribution of IDP certificates. The registration process is carried out by the competent ministry, which until 2018 was the MRA, which records personal data in a central database and issues an IDP card confirming legal status. Displaced people are required by law to participate in

⁵⁵² United Nations. *Guiding Principles on Internal Displacement*. UN Doc. E/CN.4/1998/53/Add.2. 11 February 1998.

⁵⁵³ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS No. 5, Articles 6, 8, 13.

⁵⁵⁴ United Nations, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 993 U.N.T.S. 3, Articles 6, 9, 11.

registration campaigns, which are announced by the Ministry, and they must inform authorities of any change in residence, so that the database can be updated⁵⁵⁵.

Once issued, the IDP card functions alongside the national identity card, playing a dual role: it is both a proof of legal status and a practical tool for accessing rights and benefits. As a matter of fact, only card holders can access state assistance, such as the monthly IDP allowance, and education and healthcare benefits; as well as qualifying for housing allocation and compensation programmes. Official documentation of displacement is also a prerequisite for access to legal proceedings on property restitution claims⁵⁵⁶. By providing official documentation of displacement, the Georgian Government, directly reflects principle 20 of the UN Guiding Principles on Internal Displacement, requiring states to issue new documents, or replace those lost during displacement, without imposing unreasonable conditions⁵⁵⁷.

The absence or withdrawal of the IDP card can have severe consequences, including exclusion from social protection, loss of housing eligibility, and barriers to justice. Reports by both UNHCR and the Norwegian Refugee Council have documented cases where IDPs without valid cards were unable to claim entitlements or were deregistered. UNHCR's 2009 analysis documented instances where IDPs lost their certificates during collective centres closures and highlighted how lack of information on the registration process excluded many⁵⁵⁸. Without valid cards, they were excluded from the monthly allowance and could not apply for durable housing. Although they attempted to appeal, the process required legal assistance they could not afford, and many families remained without recognition for several years⁵⁵⁹. Similarly, the Norwegian Refugee Council reported cases where IDPs who

⁵⁵⁵ *Law of Georgia on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia*, No. 3351-RS, adopted 6 February 2014, entered into force 1 March 2014, as amended, Legislative Herald of Georgia.

⁵⁵⁶ United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009.

⁵⁵⁷ United Nations. *Guiding Principles on Internal Displacement*. UN Doc. E/CN.4/1998/53/Add.2. 11 February 1998. Principle 20.

⁵⁵⁸ United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009.

⁵⁵⁹ *Ibid.*

relocated to rural settlements without notifying the authorities were removed from the registry⁵⁶⁰.

These examples highlight how the IDP card is not a simple administrative formality but a decisive factor in determining whether displaced persons can access rights and remedies. Loss or withdrawal of the card renders IDPs invisible to the state, undermining the principle of equality before the law.

In practice, registration has been managed through the national IDP registry, historically administered by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees (MRA). The registry itself has functioned not only as a statistical tool, but as the central mechanism for determining eligibility for state assistance.

Registration exercises have been conducted periodically, often in connection with large scale revisions to social benefits. These campaigns require IDPs to appear for verification, update personal data, and confirm prolonged displacement status. The process has been critical in monitoring demographic changes within the displaced population, as well as tracking secondary movements. Since the 2014 amendments to the original IDP law, vulnerability assessments have been introduced as part of these registration exercises, in line with the broader *Targeted Social Assistance* (TSA) programme.

However, the shift to a more needs-based approach also meant more challenges for displaced people. As a matter of fact, IDPs are now required to face repeated assessments, continuously submitting documentation. The burden of repeated verification has been a source of frustration for those already struggling, and NGOs have reported cases where families were excluded due to incomplete paperwork or inability to attend verification sessions⁵⁶¹. Moreover, the decentralization of responsibilities after 2018 has sometimes led to inconsistent practices across

⁵⁶⁰ Norwegian Refugee Council (NRC). *Internal Displacement in Georgia: Background Paper for the UPR*. NRC, 2009.

⁵⁶¹ Internal Displacement Monitoring Centre (IDMC), *Georgia: IDPs in Protracted Displacement Need Durable Housing and Livelihood Solutions* (IDMC, 2019); United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009.

ministries and municipalities, with local authorities interpreting eligibility criteria differently⁵⁶².

Despite the existence of a formal framework for registration, significant challenges persist. Field research has repeatedly documented delays and bureaucratic obstacles in registration, particularly during mass verification campaigns when thousands of households are required to present themselves within short timeframes.

More complications arise from the loss of personal documentation during displacement. Many of those who fled from Abkhazia and South Ossetia in the 1990s, left with little warning, bringing with them essential belongings, and leaving behind birth certificates, marriage records, and property documentation. The lack of these documents has further complicated the process of proving identity, family composition and property ownership.

Cases of deregistration have also been reported, especially when IDPs relocated without notifying authorities or when officials determined that housing assistance was enough to resolve their displacement. While the law specifies grounds for terminating IDP status, NGOs have criticized the lack of transparency and due process in these decisions⁵⁶³.

Geographic accessibility further exacerbates these issues. For IDPs in rural settlements, access to registration offices remains a significant barrier as cost of travel, combined with the sacrifice of daily income, often discourages them from updating their personal data. Research confirms this trend, as a 2012 survey by the CRRC noted that IDPs in remote areas were less likely to have participated in re-registration programmes, leaving them at risk of exclusion from benefits⁵⁶⁴. Similarly, both UNHCR and OCHA reported that lack of awareness on procedures,

⁵⁶² Caucasus Institute for Peace, Democracy and Development (CIPDD), *The Impact of the IDP Status in Georgia* (CIPDD, 2018).

⁵⁶³ United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009.

⁵⁶⁴ Caucasus Research Resource Centers (CRRC), *Survey on the Socio-Economic Conditions and Attitudes of IDPs in Georgia* (CRRC, 2012).

and logistical obstacles often prevented IDPs from appealing deregistration decisions, effectively limiting their access to remedies⁵⁶⁵.

Taken together, these issues raise concerns when measured against international standards. The *Guiding Principles on Internal Displacement* emphasize that IDPs must not face discrimination in obtaining documentation and that authorities should facilitate replacement of documents lost during displacement⁵⁶⁶. Similarly, Recommendation Rec (2006)6 of the Council of Europe calls on member states to ensure that IDPs have access to personal documentation and registration procedures without obstacles⁵⁶⁷.

Georgia's framework, while detailed in theory, has often fallen short of international standards. Complex procedural requirements, inconsistent practices across regions, and limited outreach to remote communities have created significant barriers that compromise equal access to the law. Registration, therefore, cannot be treated as a simple administrative procedure, as the ability of IDPs to obtain and maintain valid documentation constitutes a guarantee of equality before the law, ensuring that displaced persons are recognized as right-holders with specific entitlements. The consequences of lack of documentation extend beyond access to benefits, directly shaping the ability of IDPs to seek remedies in the justice system.

Although the European Convention on Human Rights does not expressly recognize a distinct right to documentation, the European Court of Human Rights has repeatedly addressed the consequences of obstructed access to identity papers in the displacement context. In particular, the Court has framed documentation and registration issues under Article 8, on private life and family; Article 1 of Protocol

⁵⁶⁵ United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009; United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Georgia: Study on IDP Rights* (OCHA, 2009).

⁵⁶⁶ United Nations Commission on Human Rights, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2, Principle 20.

⁵⁶⁷ Council of Europe, Committee of Ministers, *Recommendation Rec (2006)6 of the Committee of Ministers to Member States on Internally Displaced Persons* (Council of Europe, 5 April 2006).

No. 1, on protection of property; and Article 2 of Protocol No. 4, on freedom of movement⁵⁶⁸.

In *Georgia v. Russia (I)* (2014), the Grand Chamber addressed the expulsion of thousands of Georgian nationals from Russia in 2006, finding that Russian authorities had implemented an “administrative practice” of arrest, detention, and expulsion⁵⁶⁹. Although the case did not directly concern internally displaced persons, it is relevant for understanding how the manipulation of personal documents and registration systems can be used to exclude and displace. The Russian Government justified the expulsions as a sovereign right to remove “*illegal immigrants and persons who had otherwise infringed the statutory provisions on residence*”⁵⁷⁰. Yet the Court noted that many of those expelled were in fact lawful residents: including Georgian nationals with Russian citizenship, holders of valid residence or work permits, students registered at universities, and individuals awaiting renewal of passports or visas⁵⁷¹. This demonstrated that the expulsions were not limited to irregular migrants but extended to persons whose documentation was in order. Furthermore, evidence suggested that the Russian Federal Migration Service had even suspended issuing key documents to Georgian citizens, such as nationality certificates, registration papers, and residence permits, artificially converting many into “irregular” migrants and creating the conditions for their expulsion⁵⁷².

In *Georgia v. Russia (II)* (2021), the Grand Chamber reaffirmed that the denial of return and property restitution to displaced Georgians amounted to an “administrative practice” carried out by Russia, contrary to the Convention. The Court found that preventing Georgian IDPs from accessing their homes and land in

⁵⁶⁸ Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms*, Rome, 4 November 1950, ETS No. 5, art. 8; Council of Europe, *Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms*, Paris, 20 March 1952, ETS No. 9, art. 1; Council of Europe, *Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms*, Strasbourg, 16 September 1963, ETS No. 46, art. 2.

⁵⁶⁹ European Court of Human Rights, *Georgia v. Russia (I)* [GC], App. No. 13255/07, Judgment of 3 July 2014, HUDOC. Paras. 128-146.

⁵⁷⁰ European Court of Human Rights, *Georgia v. Russia (I)* [GC], App. No. 13255/07, Judgment of 3 July 2014, § 133, HUDOC. Para. 166.

⁵⁷¹ *Ibid.* Para. 218.

⁵⁷² *Ibid.* Para. 31.

the contested territories constituted violations of Article 8 and Protocol No. 1 Article 1⁵⁷³. Scholars further highlighted how restricted access to civil records, property deeds and recognition mechanisms perpetuated displacement and exclusion from remedies⁵⁷⁴. Similar findings are echoed by international bodies, such as the HRW, detailing the challenges faced by residents, especially across the ABLs, in obtaining documentation, and the recurring pattern of discrimination in issuing papers carried out by the *de facto* authorities⁵⁷⁵.

More recently, in *Georgia v. Russia (IV)* (2024), the Court condemned the practice of “borderisation,” which, although primarily linked to restrictions on freedom of movement, also prevents Georgian IDPs from obtaining or using documents to cross the administrative boundary lines⁵⁷⁶. As a result, they are unable to access property and land, maintain family ties, or secure essential support, such as pensions and medicines⁵⁷⁷. As a matter of fact, the inability to rely on IDPs cards, passport and other documentation is not simply a bureaucratic obstacle, but it erodes the conditions for the enjoyment of the Convention’s rights: while not expressly protected under the Convention, access to documentation is indispensable for the realization of rights to family life, property, education, and freedom of movement.

⁵⁷³ Council of Europe, *European Convention on Human Rights*, art. 8, ETS No. 5, 4 November 1950; Council of Europe, *Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms*, art. 1, ETS No. 9, 20 March 1952.

⁵⁷⁴ Marco Longobardo and Stuart Wallace, “International Decision: *Georgia v. Russia (II)*,” *American Journal of International Law* 115, no. 2 (2021), detailing the Courts findings on how denial of return “entailed the loss of access to property and the legal systems that would have enabled displaced persons to assert their rights.”

⁵⁷⁵ Human Rights Watch, *Living in Limbo: The Rights of Ethnic Georgian Returnees to the Gali District of Abkhazia* (Human Rights Watch, July 2011); Human Rights Watch interview with Tamar T., Gali, October 3, 2009, “Many have serious problems with Abkhaz passports. They can’t get all the necessary documents. Several teachers have this problem at my school. We have to go through terrible bureaucracy to apply for an Abkhaz passport”.

⁵⁷⁶ European Court of Human Rights, *Georgia v. Russia (IV)*, App. No. 39611/18, Judgment of 9 April 2024, HUDOC.

⁵⁷⁷ Andrea Insolia, “*Diritti umani delle popolazioni residenti in zone di confine in situazioni post-conflittuali*,” *Giurisprudenza Italiana*, June 2024, 1282–1286

The Court's reasoning in *Georgia v. Russia (IV)*, then builds on its earlier findings in *Georgia v. Russia (II)*, clearly highlighting how displacement is perpetuated not only by physical relocation, but also through legal and bureaucratic exclusion⁵⁷⁸.

3.2. Access to the National Justice System

Similarly to the registration procedure, access to the national justice system is closely tied to documentation and administrative recognition. The ability to prove IDP status is not only a prerequisite for receiving financial support or housing but also for standing before courts and pursuing legal remedies. In this sense, documentation and justice are interdependent as without valid papers, displaced persons risk exclusion from both social protection and judicial protection.

As a matter of fact, without IDP cards or updated registration, displaced persons may be unable to prove their status in court proceedings, including property restitution, inheritance, or housing disputes⁵⁷⁹. Even when documentation is complete, IDPs face additional barriers to accessing courts, often mirroring the challenges in reaching administrative institutions for registration. Geographic distance and financial obstacles weigh heavily on those living in remote areas, while procedural complexity and limited awareness of rights further discourage litigation. These obstacles mean that many disputes remain unresolved, strengthening the marginalization of displaced communities⁵⁸⁰.

Concerns also arise in relation to due process in the appeal mechanisms. As a matter of fact, OCHA has reported that lack of awareness and logistical barriers frequently prevent IDPs from contesting deregistration decisions, effectively denying them remedies. In practice, the procedure for appealing a deregistration decision is poorly regulated and inconsistently applied. These findings are supported by research such as OCHA's *Study on IDP Rights in Georgia*, which denotes that many IDPs are

⁵⁷⁸ European Court of Human Rights, *Georgia v. Russia (II)* [GC], App. No. 38263/08, Judgment of 21 January 2021, HUDOC; European Court of Human Rights, *Georgia v. Russia (IV)*, App. No. 39611/18, Chamber Judgment of 9 April 2024, HUDOC.

⁵⁷⁹ United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009.

⁵⁸⁰ UN Georgia, *Access to Justice for Internally Displaced Persons in Georgia* (United Nations in Georgia, 2016).

unaware of their right to appeal, and that information on judicial procedures is rarely communicated by local authorities. Furthermore, even when appeals are correctly lodged, they are often handled by the same bodies that issued the original decisions, raising questions of impartiality and independence. The lack of legal aid in many deregistration cases also means that appeals are frequently drafted without professional help, reducing their effectiveness⁵⁸¹. UNHCR also observed that deregistration decisions are often taken without providing sufficient reasoning, making it even harder for IDPs to challenge them⁵⁸².

One of the most effective responses to these challenges has been the creation of legal aid clinics. Since their establishment in 2010, they have provided free legal advice and representation to more than 28,000 IDPs, operating in collaboration with the Ministry of Internally Displaced Persons and supported by UN Women, the European Union, and the Government of Norway⁵⁸³. The clinics were initially created with Norwegian funding, and later became part of the EU programme *Equal Access of IDPs to Economic Opportunities*, supported by UN Women and the Food and Agriculture Organization⁵⁸⁴. These services have proven essential in cases involving housing allocation, property rights, family disputes and social benefits, ensuring that those lacking financial means to afford legal representation are not excluded from justice.

The clinics are located within regional offices of the MRA, including areas such as the Gori district, and other cities close to the Administrative Border Lines, thus reaching communities most affected by displacement. Their services extend beyond individual consultations: as a matter of fact, lawyers have organized community outreach sessions for more than 42,000 IDPs, providing information on accommodation processes, property rights, social security, and women's rights. In

⁵⁸¹ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Georgia: Study on IDP Rights* (OCHA, 2009).

⁵⁸² United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009.

⁵⁸³ United Nations Georgia, *Access to Justice for Internally Displaced Persons* (UN Georgia, 2016).

⁵⁸⁴ UN Women. *Equal Access of IDPs to Economic Opportunities in Georgia* (UN Women, 2016).

addition to consultations, the clinics have represented over 1.000 individuals in court, especially in cases concerning property restitution⁵⁸⁵.

In this context the gender dimension has been particularly relevant. UNHCR has observed that women face heightened vulnerability, being disproportionately affected by the lack of documentation and often lacking the resources to navigate judicial procedures independently⁵⁸⁶. On the same note, clinic lawyers denote that while early consultations focused on the granting of IDP status, over time the caseload shifted, with women frequently seeking assistance in family law, alimony, divorce cases and domestic violence. This clearly illustrates how displacement intersects with border justice needs, and how free legal aid has been essential in protecting vulnerable groups⁵⁸⁷.

In addition to stationary legal aid clinics, Georgia has recently expanded services through the creation of mobile legal clinics, designed to reach remote and conflict affected areas where IDPs often face the greatest challenges in accessing justice. The project, known as “*Legal Aid on Wheels*”, was launched in 2023, by the Legal Aid Service in cooperation with UNDP and with funding from the German Government. By bringing lawyers and consultants to isolated villages, communities right along the Administrative Boundary Lines and other remote regions, the initiative addresses the geographic inaccessibility that has long affected IDPs⁵⁸⁸.

The mobile clinics provide free legal consultation, information campaigns, and representation, ensuring that individuals who cannot travel to urban centres are not excluded from judicial remedies. The initiative is part of a broader programme, founded by Germany, in partnership with UNDP, and aimed at strengthening rule

⁵⁸⁵ United Nations Georgia. *Access to Justice for Internally Displaced Persons*. United Nations Georgia, 2016.

⁵⁸⁶ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Georgia: Study on IDP Rights* (OCHA, 2009).

⁵⁸⁷ United Nations High Commissioner for Refugees (UNHCR). *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. July 2009.; United Nations Georgia. *Access to Justice for Internally Displaced Persons*. Tbilisi: United Nations Georgia, 2016.

⁵⁸⁸ United Nations Development Programme (UNDP). “Legal Aid on Wheels Reaches Remote Communities in Georgia.” Press release, October 18, 2023.

of law institutions and strengthening the socio-economic resilience of disadvantaged communities⁵⁸⁹.

The approach was explicitly endorsed in the Tbilisi Declaration on Access to State-Guaranteed Legal Aid for Forcibly Displaced Populations, jointly adopted in December 2023 by legal aid providers from Armenia, Georgia, Moldova, and Ukraine. The declaration reaffirms commitment to international standards, and sets out nine guiding principles, including the use of mobile aid centres, hotlines, and outreach missions in displaced affected areas⁵⁹⁰.

Taken together, these measures demonstrate a gradual shift in the understanding of access to justice for IDPs: from an individual struggle to a structural guarantee of social and legal inclusion. Yet even when legal remedies exist, their effectiveness is undermined by restrictions on mobility, which condition access to courts, livelihoods, and family life.

As for relevant caselaw, The European Court of Human Rights addressed the issue of access to effective remedies for IDPs in *Saghinadze and Others v. Georgia* (2010)⁵⁹¹. The applicants, and IDP family from Abkhazia, had been housed in a state-owned structure in Tbilisi, however, the ministry of Interior later reclaimed the property and the family was evicted without compensation or alternative housing. The applicants challenged the eviction before domestic courts but were rejected. The Georgian Supreme Court argued that they could not rely on the IDPs Act as they were not assigned housing by the MRA, the agency designated to manage such matters.

The Court found violations of Article 8, and Article 1 of Protocol No. 1 and criticized the “formalistic interpretation” of the IDPs Act, stating that the purpose of the Act itself was to protect and reinforce displaced persons’ rights, not to deprive

⁵⁸⁹ United Nations Development Programme (UNDP) Georgia. *Improving the Rule of Law and Access to Justice for All (Project No. 01000205)*. UNDP Georgia, 2023.

⁵⁹⁰ United Nations Development Programme (UNDP) Georgia. *Tbilisi Declaration on Access to State-Guaranteed Legal Aid for Forcibly Displaced Populations*. UNDP Georgia, 2023.

⁵⁹¹ European Court of Human Rights. *Saghinadze and Others v. Georgia*, no. 18768/05, Judgment of 27 May 2010. HUDOC.

them of protection based on formalities⁵⁹². By treating the applicant's claim outside the scope of the IDPs Act, the domestic courts left the family without any meaningful remedy. This judgement illustrates a central point: access to justice for IDPs ultimately depends on courts applying protective legislation fairly: otherwise, while rights might exist on paper, they cannot be enforced in practice⁵⁹³.

Similarly, In *Georgia v. Russia (I)* (2014), the Court further emphasized how systemic barriers undermine access to the justice system⁵⁹⁴. As a matter of fact, examining the unlawful arrest, detention, and expulsion of Georgians from Russia in 2006, it found violations of Article 5, on the right to judicial review of detention, and Article 13, on the right to an effective remedy, stressing of those affected had no effective opportunity to challenge either their detention or expulsion⁵⁹⁵.

More recently, in *Georgia v. Russia (IV)* (2024), the Court examined the process of "borderisation" along the administrative boundary lines with Abkhazia and South Ossetia. It found that the erection of fences, checkpoints, and patrols not only restricted freedom of movement in violation of Article 2 of Protocol No. 4, but also cut people off from administrative institutions⁵⁹⁶. For IDPs, this meant not being able to pursue claims, attend remedies, or even access documents needed to prove their status.

Lastly, *O.J. and J.O. v. Georgia and Russia* (2023), illustrates how the lack of access to lawful courts can create a situation of legal void. In this particular case

⁵⁹² European Court of Human Rights, *Saghinadze and Others v. Georgia*, no. 18768/05, Judgment of 27 May 2010, HUDOC. Para. 115; Council of Europe. *European Convention on Human Rights*. Rome, 4 November 1950. CETS No. 005, art. 8; Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Paris, 20 March 1952. CETS No. 009, art. 1.

⁵⁹³ The issue of unenforced or inaccessible remedies has also been highlighted in other Georgian Cases, see European Court of Human Rights, *Apostol v. Georgia*, no. 30779/04, Judgment of 28 November 2006, HUDOC; European Court of Human Rights, *Assanidze v. Georgia* [GC], no. 71503/01, Judgment of 8 April 2004, HUDOC.

⁵⁹⁴ European Court of Human Rights, *Georgia v. Russia (I)* [GC], no. 13255/07, Judgment of 3 July 2014, HUDOC. Paras.179-188, 207-221.

⁵⁹⁵ Council of Europe, *European Convention on Human Rights*, 4 November 1950, CETS No. 005. arts. 5, 13.

⁵⁹⁶ Council of Europe, *Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms*, Strasbourg, 16 September 1963, CETS No. 046, art. 2; European Court of Human Rights, *Georgia v. Russia (IV)*, no. 39611/18, Judgment of 9 April 2024, HUDOC,

the applicants, two Georgian nationals, were arrested by *de facto* authorities in Abkhazia, charged with espionage and convicted by the “Supreme Court of Abkhazia”⁵⁹⁷. Their detention and conviction were not subject to review by a lawful court, and the refusal to recognize Georgian legal documents and institutions meant that they could not turn to a legitimate national system for protection. In practice, this left them in a juridical vacuum: their rights existed under the European Convention, but they could not access a forum capable of enforcing them.

Together, these judgements illustrate that barriers to justice are not individual challenges but arise from structural practices. For internally displaced persons, this means that even if legal remedies exist in theory, they might be inaccessible. The Court’s findings reinforce the principle that access to justice must be guaranteed not only in law, but also in practice, through remedies that are genuinely available and effective on the ground.

3.3. Freedom of Movement and Choice of Residence

Freedom of movement and the ability to choose one’s residence directly shape the lives of internally displaced persons. For those uprooted by conflict in Georgia, freedom of movement represents more than physical relocation: it governs access to housing, livelihoods, education, and even the possibility of maintaining family and community ties. Restrictions on movement translate into restrictions on justice, welfare, and social inclusion. In this context, the right to move freely cannot be separated from the broader protection framework for IDPs, representing both a precondition for exercising of other rights and a test of whether displacement has been transformed into long-term marginalization.

Article 14 of the Constitution of Georgia affirms that “*everyone... shall have the right to move freely within the territory of the country, to choose a place of residence*”, as well as the freedom to leave the country⁵⁹⁸. This guarantee is

⁵⁹⁷ European Court of Human Rights, *O.J. and J.O. v. Georgia and Russia*, nos. 23180/17 and 38649/17, Judgment of 7 December 2023, HUDOC.

⁵⁹⁸ Constitution of Georgia, adopted 24 August 1995, as amended to 13 October 2017, art. 14.

reinforced by international standards: Principle 14 of the Guiding Principles on Internal Displacement recognizes that IDPs shall enjoy the same rights to liberty of movement and freedom of residence as other citizens, while Article 2 of Protocol No. 4 to the ECHR states that “everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence”⁵⁹⁹.

In practice, however, the exercise of these rights by IDPs in Georgia is limited by administrative and security restrictions. The maintenance of IDP status is closely tied to residence registration, meaning that relocation without updating official records can result in deregistration and the loss of benefits. At the same time, movement across the Administrative Boundary Lines in Abkhazia and South Ossetia is subject to checkpoints, and restrictions imposed by *de facto* authorities, which severely limit access to property, family members, and livelihoods⁶⁰⁰. As a matter of fact, crossing these borders requires permits issued by *de facto* authorities, which are often arbitrarily denied. Reports document that residents attempting to cross the line risk detention, fines, or even mistreatment⁶⁰¹. The process of “borderisation”, has further intensified restrictions, physically dividing communities and cutting individuals off from farmland, relatives, and essential services.

These restrictions have profound consequences for the daily life of IDPs: family reunification is often impossible, with relatives separated on opposite sides of the border; access to property, agricultural lands and places of origins is also limited. Livelihoods are disrupted as farmers lose access to fields and workers are cut off from employment opportunities across the line. For those living in remote settlements across the border, geography exacerbates these barriers, as travel to courts, schools, or hospitals requires longer journeys and higher costs. Taken

⁵⁹⁹ United Nations, *Guiding Principles on Internal Displacement*, UN Doc. E/CN.4/1998/53/Add.2 (1998), Principle 14; Council of Europe, *Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Securing Certain Rights and Freedoms Other than Those Already Included in the Convention and in the First Protocol Thereto*, Sept. 16, 1963, art. 2.

⁶⁰⁰ Office of the United Nations High Commissioner for Refugees (UNHCR), *Georgia: Freedom of Movement and Access to Services for IDPs*, Situation Report, 2023.

⁶⁰¹ “Occupied – Russian Occupation and Creeping Annexation in Georgia,” Eastwatch. see <https://occupied.eastwatch.eu/>

together, these mobility restrictions reinforce the social and economic marginalization of displaced communities⁶⁰².

International reports consistently highlight the gap between Georgia's formal guarantees of mobility and the realities faced by IDPs. UNHCR and OCHA have observed that lack of information, logistical barriers, and arbitrary closures prevent IDPs from exercising their mobility rights in practice⁶⁰³. Furthermore, since 2008, the UN General Assembly has annually adopted resolutions reaffirming the right of return and the property rights of displaced persons from Abkhazia and South Ossetia, condemning forced demographic changes, and calling for safe and dignified return⁶⁰⁴. The resolutions also mandate the UN Secretary General to prepare global reports on the situation of IDPs in Georgia, monitoring implementation of the UNGA Resolutions⁶⁰⁵. By situating the Georgian displacement crisis within a wider humanitarian framework, the General Assembly frames restriction on IDPs' freedom of movement not only as humanitarian concern, but as a violation of fundamental international principles. Therefore, restriction of movement for Georgian IDPs clearly reveal the interdependence of rights: limited mobility undermines access to justice, limits employment opportunities, and it endangers access to social services.

The European Court of Human Rights has addressed these dynamics, highlighting how restrictions of movement are both a legal violation and a humanitarian concern. *Georgia v. Russia (IV)* (2024) stands out as one of the most authoritative judgments on freedom of movement in the Georgian Context⁶⁰⁶. The Georgian Government submitted the application in 2018, alleging that Russia was responsible for a

⁶⁰² European Union Monitoring Mission (EUMM), *Freedom of Movement Across the Administrative Boundary Lines in Georgia: EUMM Observations 2022–2023* (EUMM, 2023).

⁶⁰³ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Georgia: New Approach to IDP Assistance* (OCHA, 2023); UNHCR, *Georgia: New Internal Displacement Action Plan* (UNHCR, 2023).

⁶⁰⁴ United Nations General Assembly, *Status of Internally Displaced Persons and Refugees from Abkhazia, Georgia, and the Tskhinvali Region/South Ossetia, Georgia*, A/RES/79/291 (3 June 2025).

⁶⁰⁵ "UN General Assembly Passes Georgia IDP Resolution," *Civil.ge*, June 3, 2025, <https://civil.ge/archives/685113>, noting that 107 states voted in favour, 9 against, and 49 abstained, highlighting the broader recognition of the displacement crisis within the international community.

⁶⁰⁶ European Court of Human Rights, *Georgia v. Russia (IV)*, no. 39611/18, Judgment of 9 April 2024, HUDOC.

systematic pattern of violations across the ABLs. Examining the case, the Court found that the practice of “borderisation”, which gradually restricted border crossings, amounted to the violation of several provisions under the Convention. The Court found multiple breaches in the convention: Article 2, Article 3, Article 5, Article 8, Article 1 of Protocol No. 1, Article 2 of Protocol No. 1, and crucially, Article 2 of Protocol No. 4⁶⁰⁷. The Court further concluded that these were not isolated incidents, but a pattern of violation officially tolerated by Russia, which exercised effective control over the territories, and was therefore responsible for the acts of the *de facto* authorities⁶⁰⁸.

A significant aspect of the judgement concerns the Court interpretation of Article 2 in relation to the cases where individuals died as a result of attempting to cross the ABLs using alternative routes. The Court rejected the argument according to which Article 2 does not apply in activities where life might be at risk, especially if the victim's action contributed to that risk, stressing that the dangers faced by those crossing the borders were direct consequences of unlawful restrictions on freedom of movement imposed by unrecognized authorities⁶⁰⁹. The court also analyzed the connection between unlawful detention and restrictions on mobility. As a matter of fact, having already established that separatist authorities could not legitimately arrest or detain individuals attempting to cross the ABLs, it concluded that they also lacked any authority to impose restrictions on freedom of movement itself. The judgment underlines that liberty and mobility are inseparable: the absence of

⁶⁰⁷Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms* (European Convention on Human Rights, as amended), Rome, 4 November 1950, ETS No. 5, Articles 2, 3, 5, 8; *Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms* (Protocol No. 1), Paris, 20 March 1952, ETS No. 9, Articles 1–2; *Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto*, Strasbourg, 16 September 1963, ETS No. 46, Article 2. HUDOC,

⁶⁰⁸ European Court of Human Rights, *Georgia v. Russia (IV)*, no. 39611/18, Judgment of 9 April 2024, HUDOC. Paras. 19, 79.

⁶⁰⁹ European Court of Human Rights, *Georgia v. Russia (IV)*, no. 39611/18, Judgment of 9 April 2024, HUDOC. Paras. 32-34; Andrea Insolia, “Diritti umani delle popolazioni residenti in zone di confine in situazioni post-conflittuali,” *Giurisprudenza Italiana*, June 2024, 1282–1286.

authority to detain necessarily implies the absence of authority to impose restrictions on movement⁶¹⁰.

The significance of the judgement lies in its recognition of freedom of movement as a "gateway right": by fencing off communities, restricting crossings, and subjecting residents to arbitrary detention, the borderisation measures not only limited mobility but also exacerbated displacement, cutting individuals off from farmland, schools, family, and administrative institutions. Scholarly commentary has described the ruling as consolidating and systematizing earlier jurisprudence, while also highlighting how freedom of movement is a fundamental prerequisite for the enjoyment of other rights⁶¹¹.

In this sense, *Georgia v. Russia (IV)* does more than condemn borderisation: it situates the restriction of movement at the centre of the Georgian displacement crisis. The judgment makes clear that border fences and checkpoints do not merely limit movement; they consolidate displacement, turning temporary uprooting into long-lasting marginalization, and reaffirm that Convention rights must be guaranteed in practice, not left as abstract principles.

This conclusion is reinforced by *Mamasakhlisi and Others v. Georgia and Russia (2023)*, which concerned the arrests of Georgian nationals by de facto Abkhaz authorities. Although the Court's findings were framed under Articles 3 and 5, the core issue was, once again, the impossibility of crossing the ABL without risk of arbitrary detention. The applicants' inability to move freely across the line placed them in a position where their liberty and security depended entirely on the discretion of unrecognized authorities⁶¹².

⁶¹⁰ Ibid. Para. 63; Andrea Insolia, "Diritti umani delle popolazioni residenti in zone di confine in situazioni post-conflittuali," *Giurisprudenza Italiana*, June 2024, 1282–1286.

⁶¹¹ Ibid.

⁶¹² European Court of Human Rights, *Mamasakhlisi and Others v. Georgia and Russia*, nos. 29999/04 and 41424/04, Judgment of 14 December 2023, HUDOC; Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms* (European Convention on Human Rights, as amended), Rome, 4 November 1950, ETS No. 5, Articles 3 and 5.

Taken together, these cases demonstrate that for Georgian IDPs, freedom of movement is a structural condition for the enjoyment of other rights. As the Court has consistently stressed, rights under the Convention must be practical and effective. In the Georgian context, restrictions on mobility, whether through borderisation or the threat of arbitrary detention, transform displacement into long-term marginalization, undermining access to justice, property, education, and family life.

3.4. Right to work, social security, land, and property

While the previous sections have analyzed civil rights, particularly access to justice and freedom of movement, it's important to shift focus to the economic sphere, as economical rights form the material basis of equality. As a matter of fact, employment is the foundation of self-reliance; social protection provides a minimum standard of security; and property rights ensure both economic stability and the hope for restitution. Although these issues often overlap with civil rights, it's important to focus on legal guarantees and remedies available to IDPs in this context.

The right to work is recognized under Article 30 of the Georgian constitution, and further reinforced by the *Law on Internally Displaced Persons*, which entitles IDPs to participate in state employment campaigns on an equal basis with other citizens⁶¹³. In practice, however, displaced persons face consistent challenges in finding employment. Once again, geographic isolation of settlements plays a crucial role, as IDPs are often far from urban labour markets, and even when they do have an occupation, unreliable transport links and mobility restrictions further marginalize them. Discrimination and stigma are other persistent obstacles, as oftentimes employers refuse to hire IDPs. Reports also highlight that unemployment rates are disproportionately high for displaced people living in

⁶¹³ Constitution of Georgia, adopted 24 August 1995, as amended to 13 October 2017, art. 30; *Law of the Republic of Georgia on Internally Displaced Persons – Persecuted*, No. 335-II, 28 June 1996.

collective centres or remote housing, where opportunities for job training are more limited⁶¹⁴.

In response, occupational training has been promoted as a key instrument to address unemployment challenges. From 2021 to 2023, UNDP, in cooperation with the EU and Georgia's Skills Agency, implemented a multi-year programme aimed at strengthening vocational education institutions and public schools across several regions. These institutions received technical resources and staff training, while also encouraging the modernization of teaching methods to better align with the job market. At the same time, new teaching programmes were introduced in the growing sectors of tourism, wellness, and personal services. Moreover, the initiative promoted career orientation services, including specific support for persons with disabilities, as well as extracurricular activities, such as small business support, or paid internship for IDP youth, to improve inclusion and employment chances⁶¹⁵.

Despite efforts, monitoring reports still denote that, while training improved employability, actual job opportunities remain limited. Many of those who attended skill development programmes struggle to find stable employment, as the local job market, particularly in rural areas, cannot absorb them. Moreover, because connections between training institutions and private employers remain weak, skills acquired through training rarely lead to concrete employment opportunities. This gap underscores the need for stronger cooperation between the public and private sectors, as well as the need to better align job training to local job markets⁶¹⁶.

⁶¹⁴ United Nations Development Programme (UNDP) Georgia, *Supporting Livelihoods for IDPs in Georgia: Project Brief*, 2023; Internal Displacement Monitoring Centre (IDMC), *Georgia Country Profile*, 2024.

⁶¹⁵ United Nations Development Programme (UNDP) Georgia, *Lifelong Education: Empowering Georgian Youth Through Educational Opportunities*, Press Release, 14 December 2023; "Georgia: EU and UNDP Wrap Up Non-Formal Education and Vocational Training Initiative," *EU Neighbours East*, 13 December 2023; United Nations Development Programme (UNDP) Georgia, *Supporting Livelihoods for IDPs in Georgia: Project Brief*, 2023.

⁶¹⁶ United Nations Development Programme (UNDP) Georgia, *Lifelong Education: Empowering Georgian Youth Through Educational Opportunities*, Press Release, 14 December 2023; European Training Foundation (ETF), *Country Fiche: Georgia 2023 – Key Policy Developments in Education, Training and Employment*, April 2024.

As for social security and welfare measures, internally displaced persons in Georgia are entitled to financial support and housing assistance under Chapter IV of the national Law on IDPs⁶¹⁷. While these benefits were initially established as emergency relief measures, they have remained the principal form of state assistance. The monthly allowance, however, is minimal and it currently amounts to 45 GEL (around €15), and cannot cover basic needs such as food, utilities, or healthcare⁶¹⁸.

Access to these benefits is further complicated by bureaucratic obstacles, as IDPs risk losing their allowance if they are deregistered after moving or failing to update their residence status. This creates insecurity and further reinforces dependency on state aid, rather than supporting the inclusion of IDPs.

In recent years, however, reforms attempted to shift the focus to more durable solutions. The government, in cooperation with international partners such as UNDP, has strengthened housing allocation mechanisms, transferring ownership of newly built, or renovated units to displaced families.⁶¹⁹ According to official data, more than 54.000 IDPs have received long term housing, although over 50,000 families remain on waiting lists⁶²⁰. Alongside housing provisions, reforms have granted IDPs access to national welfare schemes, such as pensions and health insurance, gradually reducing their reliance on IDP specific initiatives⁶²¹.

These measures represent progress towards durable solutions, but monitoring reports note that social security for IDPs is still treated mainly as short-term aid, rather than as a way to support their full social and economic inclusion and equality before the law.

⁶¹⁷ *Law of Georgia on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia*, No. 3351-RS, adopted 6 February 2014, entered into force 1 March 2014, as amended, Legislative Herald of Georgia.

⁶¹⁸ *Ibid.* art. 12(a).

⁶¹⁹ United Nations High Commissioner for Refugees (UNHCR), *Georgia: Durable Housing Solutions for IDPs*, Operational Update, 2023.

⁶²⁰ Public Defender of Georgia, *Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia – 2023*. Chapter 25.

⁶²¹ EU Neighbours East, *Political Engagement of Internally Displaced Persons (IDPs) in Georgia – Reality, Challenges, and Standards*, 2024.

Lastly, addressing land and property rights is essential to complete the analysis of the individual rights of IDPs in Georgia. Displacement from the regions of Abkhazia and South Ossetia resulted in the mass dispossession of homes and farmland, which remain inaccessible as of today. While Georgian Law continues to recognize the property rights of IDPs, enforcement is impossible as the state has no effective control over these territories⁶²². At the international level, the UN General Assembly continues to reaffirm the right of return and property restitution for Georgian displaced people. Similarly, the ECHR, in *Georgia v. Russia (II)* (2021), found Russia responsible for violation of property rights during and after the 2008 conflict, as well as generally condemning the country for human rights violations carried out against Georgian civilians⁶²³.

More recently, in *Taganova and Others v. Georgia and Russia* (2024), the Court further underscored that since Russia exercises effective control over Abkhazia, it bears the responsibility of protecting the rights of those living in the territory. The ruling found that Russia has consistently failed to secure the property rights of displaced persons, therefore violating Article 1 of Protocol No. 1, and Article 8 of the European Convention, entitling applicants who were denied access to their home to compensation⁶²⁴. Importantly, the Court also awarded individual compensation to the applicants, distinguishing itself from previous judgements, such as *Georgia v. Russia (II)*, which had mainly declaratory findings. In this case, the Court operationalized the right to restitution and contribution, reinforcing the enforceability of property rights in situations of protracted displacement⁶²⁵.

The challenges faced by Georgian IDPs are also addressed by the Pinheiro Principles on Housing and Property Restitution, which set out international standards for property restitution or compensation. The principles emphasize that

⁶²² *Law of Georgia on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia*, No. 3351-RS, adopted 6 February 2014, entered into force 1 March 2014, as amended, Legislative Herald of Georgia.

⁶²³ European Court of Human Rights (ECtHR), *Georgia v. Russia (II)* [GC], no. 38263/08, Judgment of 21 January 2021. on human rights violations carried out by the Russian federation during the August 2008 conflict.

⁶²⁴ European Court of Human Rights (ECtHR), *Taganova and Others v. Georgia and Russia*, nos. 73478/12, 39624/13, 43868/13, 189/14, 370/14, and 4535/14, Judgment of 17 December 2024

⁶²⁵ *Ibid.* paras. 416-420.

restitution should be an absolute right, enforceable despite the resolution of displacement, or of crises that led to it⁶²⁶.

Despite these legal recognitions, both at the national and international level, IDPs remain unable to cross Administrative Boundary Lines to reclaim their property. Compensation and housing programmes established by the Georgian government and by international actors have provided partial relief but cannot fully reintegrate the economic loss tied to displacement⁶²⁷.

The analysis of documentation, access to justice, freedom of movement, and economic rights show that equality before the law for Georgia's IDPs remains more formal than practical. While the legal framework recognizes IDPs as equal citizens, in practice their rights depend on administrative recognition, geographic accessibility, and unresolved political conflicts. Ongoing issues such as deregistration, mobility restrictions, and unenforceable property rights reveal how displacement continues being a reason for marginalization. Achieving genuine equality before the law, therefore, requires more than constitutional guarantees: it calls for measures to remove structural barriers and to recognize IDPs not as recipients of temporary aid, but as full rights-holders entitled to durable solutions.

4. International Criminal Court on Georgia

4.1. Decision ICC 01/15 Authorizing the Investigation of the Situation in Georgia

The 2008 conflict between Georgia and Russia not only generated mass displacement but also raised questions of individual criminal responsibility for grave violations of human rights under international law. While regional

⁶²⁶ UN Sub-Commission on the Promotion and Protection of Human Rights, *Principles on Housing and Property Restitution for Refugees and Displaced Persons*, E/CN.4/Sub.2/2005/17, 28 June 2005; Office of the High Commissioner for Human Rights (OHCHR), *Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the Pinheiro Principles* (United Nations, 2007).

⁶²⁷ Public Defender of Georgia, *Report on the Situation of Human Rights and Freedoms in Georgia – 2023*, chap. 25.2.

mechanisms such as the European Court of Human Rights have addressed state responsibility, the International Criminal Court (ICC) represents the principal judicial mechanism for addressing personal responsibility for international crimes. The Court's involvement is significant for two main reasons. First of all, it shifts the focus from state responsibility to the accountability of individuals responsible for crimes, including forcible transfer and persecution of civilians. Secondly, the ICC has placed particular emphasis on victim participation, prioritizing engagement with affected communities, recognizing that legitimacy depends not only on its legal findings, but also on making sure that victims of displacement feel represented in the justice process. As a matter of fact, through its country office and in line with its "outreach" campaign, the Court has organized several information campaigns in IDP settlements, as well as consultations with civil society and academia, directly engaging with affected people and media. This approach enables the court to bridge the gap between international justice and local realities, reinforcing both the legitimacy and the relevance of its mandate⁶²⁸.

Georgia ratified the Rome Statute on 5 September 2003, with entry into force on 1 December 2003, establishing the jurisdiction of the ICC over crimes committed on its territory. Following the August 2008 hostilities, the Office of the Prosecutor (OTP) opened a preliminary examination, which lasted more than seven years and ended with the request to launch a full investigation. On 27 January 2016, Pre-Trial Chamber I authorized the Prosecutor to investigate the "Situation in Georgia," finding a reasonable basis to believe that war crimes and crimes against humanity had been committed between 1 July and 10 October 2008⁶²⁹.

In its 2015 *Report on Preliminary Examination Activities*, the OTP concluded that there was a reasonable basis to believe that both war crimes and crimes against humanity had been committed. The report identified several instances potentially

⁶²⁸ International Criminal Court (ICC), "Georgia," last updated 2024, see <https://www.icc-cpi.int/georgia>

⁶²⁹ International Criminal Court (ICC), *Decision on the Prosecutor's Request for Authorization of an Investigation*, ICC-01/15-12, Pre-Trial Chamber I, 27 January 2016,.

falling under the Court's jurisdiction⁶³⁰. Firstly, the OTP found a reasonable basis to believe that South Ossetian forces, with possible support from Russian troops, committed the crime of forcible transfer of population under Article 7(1)(d) of the Rome Statute⁶³¹. According to data, around 18,500 ethnic Georgians fled from South Ossetia and adjacent areas, while between 51 and 113 ethnic Georgian civilians were killed, with evidence suggesting that the displacement was carried out in a systematic manner targeting Georgian villages⁶³².

Furthermore, the report concluded that there was enough evidence to believe that South Ossetian armed groups committed the war crimes of destruction of property and pillaging, under Articles 8(2)(a)(iv) and 8(2)(b)(xvi) of the Statute. In fact, several Georgian settlements were burned and looted following the cessation of active hostilities, with the intent of preventing return⁶³³.

Similarly, the OTP alleged that the crime of attacks against peacekeepers had been carried out. While both parties attacked peacekeeping forces, the report emphasized that the most serious incidents involved the killing of Georgian peacekeepers stationed in South Ossetia⁶³⁴.

On 27 January 2016, Pre-Trial Chamber I issued its *Decision on the Prosecutor's Request for Authorization of an Investigation* (ICC-01/15-12), authorizing the Prosecutor to open an investigation proprio motu under Article 15(3) of the Rome Statute⁶³⁵. The chamber authorized investigation into both war crimes and crimes against humanity, under article 7 and 8 of the Statute, including attacks against civilians, willful killings, destruction of property, pillaging, and attacks against peacekeepers; and murder, forcible transfer of population, and persecution.

⁶³⁰ International Criminal Court (ICC), Office of the Prosecutor (OTP), *Report on Preliminary Examination Activities 2015* (12 November 2015).

⁶³¹ *Ibid.* paras. 239-247.

⁶³² International Criminal Court (ICC), Office of the Prosecutor (OTP), *Report on Preliminary Examination Activities 2015* (12 November 2015). para. 242.

⁶³³ *Ibid.* para. 235.

⁶³⁴ International Criminal Court (ICC), Office of the Prosecutor (OTP), *Report on Preliminary Examination Activities 2015* (12 November 2015). paras. 248-251.

⁶³⁵ International Criminal Court (ICC), *Decision on the Prosecutor's Request for Authorization of an Investigation*, ICC-01/15-12, Pre-Trial Chamber I, 27 January 2016,

A central issue in the decision was the principle of complementarity. The Chamber noted that while both Georgia and Russia had initiated domestic investigations on alleged crimes, these were insufficient. In particular, the report stresses issues of impartiality when it came to the Russian judicial authorities, expressing doubts on whether the national authorities were able and willing to access crucial evidence. Consequently, the ICC determined that the admissibility criteria under Article 17 of the Statute were met⁶³⁶.

The Chamber also considered the representations of victims: over 3600 submissions were received, calling for the opening of an investigation under Article 15 of the Rome Statute⁶³⁷. The overwhelming support was taken into consideration when deciding whether the Prosecutor should initiate the investigation or not, denoting that Article 53(1)(c) requires him/her to consider the interest of the victims and the interests of justice⁶³⁸.

4.2. Forced Displacement and Denial of Return under Article 7 of the Rome Statute

Under international criminal law, forced displacement can be understood as having two distinct, yet complementary elements. The first one is the initial act of forced movement, expressly criminalized under Article 7(1)(d) of the Rome Statute, which prohibits deportation or forcible transfer of population. The second element is the protracted denial of return, which does not have a clear place in the Statute⁶³⁹. Recent ICC jurisprudence, however, clarified that it can fall within Article 7(1)(k) as an “other inhumane act”⁶⁴⁰. This recognition is significant because it closes a protection gap: the Statute now provides a framework for addressing both the

⁶³⁶International Criminal Court (ICC), *Decision on the Prosecutor’s Request for Authorization of an Investigation*, ICC-01/15-12, Pre-Trial Chamber I, 27 January 2016, para. 46; Paola Gaeta “The ICC Investigation into Georgia: A Test for Complementarity,” *Journal of International Criminal Justice* 14, no. 1 (2016).

⁶³⁷ UN General Assembly, *Rome Statute of the International Criminal Court (last amended 2010)*, ISBN No. 92-9227-227-6, UN General Assembly, 17 July 1998, art. 15.

⁶³⁸ Ibid. art. 53(1)(c).

⁶³⁹ United Nations, *Rome Statute of the International Criminal Court*, 17 July 1998, 2187 U.N.T.S. 90, Article 7.

⁶⁴⁰ ICC, *Decision on the Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3), Bangladesh/Myanmar* (ICC-RoC46(3)-01/18), Pre-Trial Chamber I, 6 September 2018.

immediate act expulsion and the prolonged suffering caused by preventing return⁶⁴¹.

In the Georgian context, this dual approach is essential: Article 7(1)(d) addresses the mass expulsions of ethnic Georgians during the 2008 conflict, while Article 7(1)(k) provides a legal basis for recognizing the ongoing barriers to return as a continuing crime against humanity

Going back to the element of forced movement, Article 7(1)(d) of the Rome Statute criminalizes “*deportation or forcible transfer of population*”, defined in the *Elements of Crimes* as the forced displacement of persons lawfully present in an area, without a justification recognized by international law⁶⁴². The crime is composed of three constitutive elements: an act of expulsion or coercion, victims who were rightfully in the territory, and the absence of legal justifications, such as military or security reasons⁶⁴³.

Over the years, international jurisprudence of both the ICC and the International Criminal Tribunal for the former Yugoslavia (ICTY), has further strengthened and clarified this provision. In *Ntaganda*, the Trial Chamber confirmed that displacement does not need to cross an international border in order to qualify as a crime under Article 7⁶⁴⁴. Furthermore, in *Bemba*, the Court underlined that coercion can be both physical and psychological, including threats of violence⁶⁴⁵. Earlier ICTY cases, such as *Krstić* and *Stakić*, established that displacement is classed as involuntary even when victims appear to consent under duress⁶⁴⁶.

The relevance of Article 7(1)(d) to the Georgian context is clear. During the 2008 conflict, approximately 26,000 ethnic Georgians were displaced, with reports from Human Rights Watch documenting the systematic burning and looting of Georgian

⁶⁴¹ Michael G. Kearney, “The Denial of the Right of Return as a Rome Statute Crime,” *Journal of International Criminal Justice* 18, no. 4 (2020).

⁶⁴² Rome Statute of the International Criminal Court, 17 July 1998, 2187 U.N.T.S. 90, art. 7(1)(d).

⁶⁴³ ICC, *Elements of Crimes* (2011), art. 7(1)(d).

⁶⁴⁴ ICC, *Judgment, Ntaganda* (ICC-01/04-02/06), Trial Chamber VI, 8 July 2019.

⁶⁴⁵ ICC, *Judgment, Bemba* (ICC-01/05-01/08), Trial Chamber III, 21 March 2016.

⁶⁴⁶ ICTY, *Judgment, Krstić* (IT-98-33-A), Appeals Chamber, 19 April 2004; ICTY, *Judgment, Stakić*(IT-97-24-A), Appeals Chamber, 22 March 2006.

villages, concluding that these acts were part of a campaign of ethnic cleansing⁶⁴⁷. Similarly, Amnesty International reported that the destruction of homes and intimidation of civilians were intended to prevent displaced persons from returning⁶⁴⁸. The ICC reached similar conclusions in its 2016 authorization decision, in this sense, the events in Georgia represent a clear example of what Article 7(1)(d) entails: a mass displacement of civilians, with no legal justifications, and with the aim of ethnic separation⁶⁴⁹.

At the same time, however, the Georgian crisis also exposes the limits of the crime of deportation under the Rome Statute. While Article 7(1)(d) captures the initial act of expulsion, it does not expressly criminalize the prolonged prevention of return. This gap has long been recognized in both scholarship and practice.

Article 7(1)(k), therefore, provides a residual category of crimes against humanity, covering “*other inhumane acts of a similar character intentionally causing great suffering or serious injury*”⁶⁵⁰. The ICC has interpreted this provision broadly, recognizing that acts not expressly listed in the Statute can qualify if they are of comparable gravity, and its case law demonstrates a gradual evolution in how the provision is understood⁶⁵¹. In *Katanga* and *Bemba*, the Court affirmed that Article 7(1)(k) is designed to encompass conduct that, while not included in the Statute, causes serious harm. In doing so the Court stressed that international criminal law is not static, and that it is capable of shifting to reflect evolving realities⁶⁵².

⁶⁴⁷ Human Rights Watch, *Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia* (HRW, 2009).

⁶⁴⁸ Amnesty International, *Civilians in the Line of Fire: The Georgia–Russia Conflict* (Amnesty International, 2008).

⁶⁴⁹ ICC, *Decision on the Prosecutor’s Request for Authorization of an Investigation*, ICC-01/15-12, Pre-Trial Chamber I, 27 January 2016.

⁶⁵⁰ Rome Statute of the International Criminal Court, 17 July 1998, 2187 U.N.T.S. 90, art. 7(1)(k).

⁶⁵¹ Earlier tribunals had already anticipated this interpretation, see ICTY, *Judgment, Kordić and Čerkez* (IT-95-14/2-A), Appeals Chamber, 17 December 2004, recognising denial of return as persecution and acknowledging the severe suffering caused by preventing displaced persons from rebuilding their lives.

⁶⁵² ICC, *Judgment, Katanga* (ICC-01/04-01/07), Trial Chamber II, 7 March 2014; ICC, *Judgment, Bemba* (ICC-01/05-01/08), Appeals Chamber, 8 June 2018.

The turning point, however, came in 2018 with the ICC's *Bangladesh/Myanmar* decision. In this context, the Pre-Trial Chamber stated that preventing Rohingya people from returning to Myanmar could fall under Article 7(1)(k), since it intentionally caused great suffering and was comparable in gravity to other crimes against humanity⁶⁵³. Both jurisprudence and academia converge on the recognition of denial of return as a crime against humanity, framing the issue not only as a humanitarian concern, but as a deliberate strategy of demographic manipulation, aimed at consolidating ethnic cleansing⁶⁵⁴.

The Georgian situation then exemplifies the importance of this development, as those uprooted by the 1990s and the 2008 conflicts are still denied return, left in a perpetual state of displacement, otherwise would have had no protection under the Rome Statute. While institutions like the UN General Assembly and the ECHR have repeatedly condemned the denial of return of Georgian IDPs as unlawful⁶⁵⁵ the ICC's recent jurisprudence goes further by allowing ongoing displacement to be prosecuted under Article 7(1)(k) as a crime against humanity. Furthermore, the threshold of gravity comparable to other crimes against humanity is clearly met, as denial of return causes serious harm: mental suffering, family separation and cultural dislocation.

4.3. Closure of the Investigation and Current Status

On 16 December 2022, the Prosecutor of the ICC, announced the formal closure of the investigation phase in the *Situation in Georgia*, signaling that the Court was ready to move from collecting evidence to pursuing prosecutions⁶⁵⁶. The Court's attention then shifted to the individuals bearing responsibility for the crimes

⁶⁵³ ICC, *Decision on the Prosecution's Request for a Ruling on Jurisdiction under Article 19(3), Bangladesh/Myanmar*(ICC-RoC46(3)-01/18), Pre-Trial Chamber I, 6 September 2018, para. 77.

⁶⁵⁴ Michael G. Kearney, "The Denial of the Right of Return as a Rome Statute Crime," *Journal of International Criminal Justice* 18, no. 4 (2020); Levinger, Tomer. "Denying the Right of Return as a Crime Against Humanity." *Israel Law Review* 54, no. 2 (2021).

⁶⁵⁵ UN General Assembly, *Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia*, A/RES/78/291 (4 July 2024); ECtHR, *Georgia v. Russia (II)*, App. No. 38263/08, Grand Chamber, 21 January 2021.

⁶⁵⁶ International Criminal Court, Office of the Prosecutor, "Statement of the Prosecutor of the International Criminal Court, Karim A.A. Khan KC, on the Conclusion of the Investigation Phase in the Situation in Georgia," 16 December 2022, <https://www.icc-cpi.int/georgia>

committed during the 2008 conflict. As a matter of fact, earlier that year, on 30 June 2022, the Pre-Trial Chamber I issued three warrants of arrest for senior officials of the *de facto* South Ossetian administration: Mikhail Mindzaev, then Minister of Internal Affairs; Gamlet Guchmazov, head of the Tskhinvali detention facility; and David Sanakoev, Presidential Representative for Human Rights⁶⁵⁷. The prosecutor argued that evidence collected was enough to believe that all three were responsible for war crimes, including unlawful confinement, torture and inhuman treatment, outrages upon personal dignity, hostage-taking, and the unlawful transfer of civilians⁶⁵⁸. In his statement the Prosecutor also referred to Major General Vyacheslav Borisov, a Russian official believed to have facilitated the commission of these crimes, who had died in 2021. The exclusion of the Russian general, despite being due to his passing, highlights a critical limitation of the ICC's intervention, as the broader question of Russian involvement in the conflict remains unaddressed.

As of 2025, all three suspects remain at large. This highlights the ICC's structural enforcement gap: the Court has no police force of its own and depends entirely on state cooperation to execute arrest warrants. In the Georgian context, neither Russia, which is not a member of the Rome Statute, nor the *de facto* South Ossetian authorities have cooperated, leaving the warrants unenforced.

The Georgia investigation also highlights the slow pace of ICC proceedings, which further prolonged the wait for justice for displaced communities. This delay, over 14 years of investigation, has been framed as a form of "prosecutorial procrastination," arguing that the Court's hesitancy undermined its credibility⁶⁵⁹. For IDPs who have been unable to return to their homes for over a decade, the slow pace has deepened mistrust and frustrations, reinforcing perceptions of international inaction.

⁶⁵⁷ International Criminal Court, *Situation in Georgia: ICC Pre-Trial Chamber delivers three arrest warrants*, Press Release, 30 June 2022.

⁶⁵⁸ ICC, *Warrant of Arrest for Mikhail Mindzaev* (ICC-01/15-30), Pre-Trial Chamber I, 30 June 2022; ICC, *Warrant of Arrest for Gamlet Guchmazov* (ICC-01/15-31), Pre-Trial Chamber I, 30 June 2022; ICC, *Warrant of Arrest for David Sanakoev* (ICC-01/15-32), Pre-Trial Chamber I, 30 June 2022.

⁶⁵⁹ Marco Bocchese, "Too Little, Too Late: The ICC and the Politics of Prosecutorial Procrastination in Georgia," *Genocide Studies and Prevention* 17, no. 3 (2024).

The length of the proceedings highlights institutional challenges, such as scarce resources, competing priorities, and the political sensitivities of investigating Russia's role. Beyond these factors, the structure of the ICC itself imposes limitations. The court is confined to individual criminal responsibility, and systemic issues, such as mass displacement, cannot be meaningfully addressed by persecuting a small group of officials.

As for the reception of the ICC's intervention in Georgia, Marco Bocchese's fieldwork is critical, as he carried out several interviews with displaced people in the country⁶⁶⁰. His work demonstrates that many displaced Georgians struggle with profound frustration with the Court's inaction. For those living in protracted displacement, the ICC's slow pace reinforced a sense of abandonment, as many of those who were interviewed affirmed that the Court's eventual action was more of a symbolic gesture, long after their immediate need for relief had passed. Furthermore, Bocchese's interviews show that displaced Georgians were critical of both prosecutors who handled the case. Bensouda was criticized for prolonging the investigation, which many saw as a further delay of justice. By contrast Khan closed the official investigation within just eighteen months of taking office, however, he avoided assigning responsibility to either Georgia or Russia, and instead focused on mid-level South Ossetian officials⁶⁶¹.

At the same time, Bocchese's work reveals that, despite mistrust in the Court, many IDPs valued the recognition of their victimization. The arrest warrants issued in 2022 were seen by some as an acknowledgement of the crimes committed against them, setting the historical record straight, and signaling that they were not forgotten by the international community⁶⁶².

Local civil society organizations, such as the Georgian Young Lawyers' Association (GYLA), have voiced similar concerns. Their commentary on the ICC's work has emphasized both the symbolic importance of the arrest warrants, as

⁶⁶⁰ Ibid.

⁶⁶¹ Marco Bocchese, "Too Little, Too Late: The ICC and the Politics of Prosecutorial Procrastination in Georgia," *Genocide Studies and Prevention* 17, no. 3 (2024).

⁶⁶² Ibid.

well as the practical limitations of the Court's intervention. GYLA, however, has stressed that while the warrants confirm the criminal nature of displacement, nothing changed in the lived reality of IDPs, who are still unable to return to their homes⁶⁶³. Similarly, the Human Rights Center (HRC), highlighted the psychological distress caused by prolonged displacement, noting that the failure to secure arrests, and prosecution being confined to a limited number of officials, risk leaving victims even more skeptical of international justice⁶⁶⁴.

Taken together, these perspectives underscore the ambivalent reception of the ICC among displaced communities. On the one hand, the Court's findings have provided recognition that the crimes committed in 2008 were not merely consequences of war but violations of international criminal law. On the other hand, the absence of enforcement and the limited scope of prosecutions have left many IDPs with the impression that justice remains incomplete.

⁶⁶³ Georgian Young Lawyers' Association (GYLA), *Annual Human Rights Report 2022: Georgia*, 2023.

⁶⁶⁴ Human Rights Center (HRC), *Justice Delayed: The ICC and the Rights of Displaced Persons in Georgia*, Policy Brief 2022.

CONCLUSION

Internal displacement has become one of the most persistent humanitarian crises of the modern era. With more than 70 million people uprooted within their own borders, according to the Internal Displacement Monitoring Centre, it is no longer an occasional side effect of wars or disasters but a structural feature of international relations. The plight of internally displaced persons (IDPs) exposes the fragility of state systems in protecting their populations and the inadequacy of international law when political will is absent. Unlike refugees, who benefit from the protection of the 1951 Refugee Convention, IDPs remain under the jurisdiction of their own state, often the very authority that has failed to protect them or has actively contributed to their displacement. This paradox underscores the tension between sovereignty and responsibility and highlights the urgent need for coherent international standards capable of ensuring survival, dignity, and durable solutions.

This thesis has traced the evolution of the international legal framework for IDPs and assessed its effectiveness in practice. The Guiding Principles on Internal Displacement represent a landmark achievement in consolidating human rights and humanitarian law into a single coherent framework, articulating the rights of IDPs across the entire displacement cycle of prevention, protection during displacement, and durable solutions. Yet, as Chapters 1 and 2 demonstrated, their non-binding nature leaves them dependent on voluntary compliance. They have shaped discourse, influenced jurisprudence, and inspired regional instruments such as the African Union's Kampala Convention, but they have not closed the protection gap.

Chapter 3 examined the role of international and regional actors, showing that humanitarian agencies, UN bodies, and NGOs are indispensable in providing assistance and visibility to IDPs, yet their mandates are limited, their resources constrained, and their access frequently obstructed. While the UN has developed

important coordination mechanisms, these remain dependent on state consent and vulnerable to political manipulation.

Chapter 4, through the case study of Georgia, illustrated how protracted displacement becomes ingrained when political conflicts remain unresolved. Decades after the conflicts in Abkhazia and South Ossetia, hundreds of thousands remain displaced, unable to return home or achieve durable solutions. The Georgian case demonstrates that even when legal frameworks exist, their effectiveness depends on political conditions that international law alone cannot guarantee, and it shows how displacement can harden into a frozen reality, sustained by geopolitical rivalries and contested sovereignties, where humanitarian assistance alleviates suffering but cannot resolve underlying causes.

The gaps and limitations identified in this study are therefore structural. The non-binding nature of the Guiding Principles leaves them dependent on voluntary compliance, humanitarian actors lack enforcement powers and remain constrained by state sovereignty. Durable solutions are obstructed by political conflicts, contested sovereignties, and the absence of effective restitution mechanisms, and the international community has failed to develop binding global instruments or accountability mechanisms capable of addressing violations of IDP rights.

Taken together, these findings underscore a central gap: humanitarian action cannot substitute for political solutions. Aid convoys, monitoring missions, and legal frameworks can mitigate suffering, but they cannot resolve displacement when states or armed groups deliberately obstruct access or instrumentalize displacement as a weapon of war.

The current global context only reinforces this conclusion. In Ukraine, millions have been displaced internally since the Russian invasion, yet humanitarian access is restricted and prospects for return remain uncertain. In Sudan, renewed violence in 2023 displaced millions more, overwhelming humanitarian agencies struggling amid insecurity and lack of funding. In Gaza, large-scale displacement has occurred under conditions where humanitarian aid is obstructed, civilian infrastructure deliberately targeted, and relief efforts politicized. These cases illustrate a recurring

pattern, humanitarian organizations continue to operate under immense pressure, but their capacity to protect is undermined when displacement is weaponized or when access is treated as leverage in political negotiations.

The persistence of protracted displacement demonstrates that legal recognition alone is insufficient. IDPs often remain in limbo for years or decades, dependent on humanitarian assistance that was never intended to be permanent. Camps evolve into semi-permanent settlements, humanitarian budgets run out, and displaced populations are left without prospects for return, resettlement, or integration. In such contexts, humanitarian aid risks becoming a substitute for political solutions, sustaining life but not restoring rights. The Georgian case exemplifies this dynamic, despite sustained humanitarian engagement, displacement remains unresolved because the underlying political conflict has not been addressed.

The broader reflection that emerges is sobering: the protection of IDPs is not merely a humanitarian concern but a test of the credibility of international law itself. It demonstrates the limits of a system that relies heavily on state consent, even when states are the very actors responsible for displacement. While the Guiding Principles have shaped discourse and inspired regional instruments, they have not closed the protection gap. Durable solutions remain elusive, and humanitarian action cannot succeed in the absence of political will. The international community has developed principles, guidelines, and even regional treaties, but it has not created the mechanisms necessary to enforce them.

This reality underscores the limits of “humanitarianism”: humanitarian aid is designed to be neutral, impartial, and independent, but in practice it is deeply affected by political dynamics. Access depends on negotiations with governments and armed groups, funding depends on donor priorities, and protection depends on the willingness of states to allow international scrutiny. When states view displacement as a threat to their authority or as a tool of war, humanitarian actors are left with little room to maneuver. The flotilla movement, which sought to break the blockade of Gaza to deliver humanitarian aid, is emblematic of the symbolic power of humanitarian and civil solidarity. It showed that civil society can mobilize

international attention to humanitarian needs, but it also revealed the fragility of such efforts when they lack institutional backing and political leverage.

At present, despite repeated affirmations of the rights of IDPs, preventive protection remains weak, humanitarian access obstructed, and durable solutions indefinitely postponed. The international community has developed principles, guidelines, and regional treaties, but not the political mechanisms necessary to enforce them. As a result, internal displacement continues to produce irreparable human suffering, and no subsequent sanction or declaration can fully compensate for the failure to protect those most at risk.

The protection of IDPs is therefore a test for the credibility of international law and for the international community's commitment to human dignity. If states continue to instrumentalize displacement and obstruct humanitarian access, the principles of international law risk becoming empty promises. No sanction or declaration can undo the harm caused by failure to protect. The challenge ahead is not only to strengthen humanitarian responses but to confront the political realities that sustain displacement. Beyond the legal frameworks and the institutional debates, what is at stake are real lives, families who have lost homes and futures, children who grow up in camps without knowing stability, communities fractured for decades. If the law is to mean anything, it must be able to protect them. Until then, internal displacement will remain not only a humanitarian tragedy but also a reminder of how far we still are from turning principles into protection.

BIBLIOGRAPHY, DOCUMENTS AND SITOGRAPHY

Books and Monographs

Brookings–LSE Project on Internal Displacement. *Protecting Internally Displaced Persons: A Manual for Law and Policymakers*. Washington, DC: Brookings Institution, 2008.

Chetail, Vincent, and Céline Bauloz, eds. *Research Handbook on International Law and Migration*. Cheltenham: Edward Elgar, 2014.

Cohen, Roberta. *Strengthening Protection of IDPs: The UNHCR's Role*. Brookings–Bern Project on Internal Displacement, 2006.

Cohen, Roberta, and Francis M. Deng. *Masses in Flight: The Global Crisis of Internal Displacement*. Washington, DC: Brookings Institution Press, 1998.

Cornell, Svante E. *Small Nations and Great Powers: A Study of Ethnopolitical Conflict in the Caucasus*. London: RoutledgeCurzon, 2001.

Deng, Francis M., et al. *Sovereignty as Responsibility: Conflict Management in Africa*. Washington, DC: Brookings Institution, 1996.

Erdenay, Hazar Ege Gürsoy. *Georgian Internally Displaced People: The Formation of a Social Identity*. Cham: Palgrave Macmillan, 2024.

Global IDP Project and Norwegian Refugee Council. *Internally Displaced People: A Global Survey*. Edited by Janie Hampton. London: Earthscan, 1998.

Hewitt, George. *Discordant Neighbours: A Reassessment of the Georgian–Abkhazian and Georgian–South Ossetian Conflicts*. Leiden: Brill, 2013.

International Commission on Intervention and State Sovereignty (ICISS). *The Responsibility to Protect*. Ottawa: International Development Research Centre, 2001.

Kälin, Walter. *Guiding Principles on Internal Displacement: Annotations*. Studies in Transnational Legal Policy, no. 38. Washington, DC: American Society of International Law and The Brookings Institution, 2008.

Kälin, Walter. *Internal Displacement and the Law*. Oxford: Oxford University Press, 2023.

Knapp, Nadine, and Anne Koch. *The Legacy of the UN Special Adviser on Solutions to Internal Displacement: How to Maintain Political Momentum after the Mandate Expires*. Berlin: SWP, 2024.

Phuong, Catherine. *The International Protection of Internally Displaced Persons*. Cambridge: Cambridge University Press, 2005.

Philpott, Daniel. *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations*. Princeton: Princeton University Press, 2001.

Weiss, Thomas G., and David A. Korn. *Internal Displacement: Conceptualization and Its Consequences*. London: Routledge, 2006.

Woodward, Susan L. *Balkan Tragedy: Chaos and Dissolution after the Cold War*. Washington, DC: Brookings Institution Press, 1995.

Journal Articles and Chapters in Edited Volumes

Bocchese, Marco. “Too Little, Too Late: The ICC and the Politics of Prosecutorial Procrastination in Georgia.” *Genocide Studies and Prevention* 17, no. 3 (2024).

Bradley, Megan. “Justice, Reconciliation, and Ending Displacement: Legal Empowerment and Displaced Populations in Transitional Justice Processes.” *Refugee Survey Quarterly* 35, no. 4 (2016).

Brenner, David. “Misunderstanding Myanmar through the Lens of Democracy.” *International Affairs* 100, no. 2 (March 2024).

Casalin, Deborah. “Durable Solutions for Internally Displaced Persons: Normative Anchors in International Human Rights Law.” *International Journal of Refugee Law* 35, no. 2 (2023).

Christopher, Paul. “Humanitarian Interventions and the Limits of Sovereignty.” *Public Affairs Quarterly* 10, no. 2 (1996).

Cohen, Roberta. “The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting.” *Global Governance* 10, no. 4 (2004).

Cohen, Roberta. “UNHCR: Expanding Its Role with IDPs.” *Forced Migration Review* 23 (2005).

Cohen, Roberta, and Megan Bradley. “Twenty Years of the Guiding Principles on Internal Displacement.” *Forced Migration Review* 59 (October 2018).

Cohen, Roberta, and Francis M. Deng. “Sovereignty as Responsibility: Building Block for R2P.” In *The Oxford Handbook of the Responsibility to Protect*, edited by Alex J. Bellamy and Tim Dunne. Oxford: Oxford University Press, 2016.

Daidone, Andrea. “How Does the R2P Affect the State Building in Fragile States?” *Analytical Dossier* no. 21/2021 (Vision & Global Trends – International Institute for Global Analyses, May 2021).

De Abreu Duarte, Francisco. “Responsibility to Protect (R2P) and the Syrian Refugee Crisis: A Missed Opportunity?” *ePública* 3, no. 2 (2016).

Deng, Francis M. “From ‘Sovereignty as Responsibility’ to the ‘Responsibility to Protect’.” *Global Responsibility to Protect* 2, no. 4 (2010).

Dieng, Adama. “Protecting Internally Displaced Persons: The Value of the Kampala Convention as a Regional Example.” *International Review of the Red Cross* 99, no. 1 (2017).

Droege, Cordula. “The Interplay between International Humanitarian Law and International Human Rights Law in Situations of Armed Conflict.” *Israel Law Review* 40, no. 2 (2007).

Duthie, Roger. “Transitional Justice and Displacement.” *International Journal of Transitional Justice* 5, no. 2 (2011).

Golub, Stephen. “A House Without a Foundation.” In *Promoting the Rule of Law Abroad: In Search of Knowledge*, edited by Thomas Carothers. Washington, DC: Carnegie Endowment for International Peace, 2006.

Hampson, Françoise J. “The Relationship between International Humanitarian Law and Human Rights Law from the Perspective of a Human Rights Treaty Body.” *International Review of the Red Cross* 90, no. 871 (2008).

Insolia, Andrea. “Diritti umani delle popolazioni residenti in zone di confine in situazioni postconflittuali.” *Giurisprudenza Italiana*, June 2024, 1282–1286.

Kälin, Walter. “The Guiding Principles on Internal Displacement as International Minimum Standard and Protection Tool.” *Refugee Survey Quarterly* 24, no. 3 (2005).

Kearney, Michael G. “The Denial of the Right of Return as a Rome Statute Crime.” *Journal of International Criminal Justice* 18, no. 4 (2020).

Kellenberger, Jakob. “The ICRC’s Response to Internal Displacement: Strengths, Challenges and Constraints.” *International Review of the Red Cross* 91, no. 875 (September 2009).

Kuusipalo, Rina. “Exiled by Emissions—Climate Change Related Displacement and Migration in International Law: Gaps in Global Governance and the Role of the UN Climate Convention.” *Vermont Journal of Environmental Law* 18, no. 4 (2017): 614–647.

Lavoyer, Jean Philippe. “Internally Displaced Persons: The Mandate and Role of the International Committee of the Red Cross.” *International Review of the Red Cross* 83, no. 843 (September 2001).

Levinger, Tomer. “Denying the Right of Return as a Crime Against Humanity.” *Israel Law Review* 54, no. 2 (2021).

Longobardo, Marco, and Stuart Wallace. “International Decision: Georgia v. Russia (II).” *American Journal of International Law* 115, no. 2 (2021).

Montemurro, Silvia, and Nadine Walicki. “Invisibility of Urban IDPs in Europe.” *Forced Migration Review* no. 63 (October 2020).

Mooney, Erin. “National Responsibility and Internal Displacement: A Framework for Action.” *Forced Migration Review Supplement* (May 2003).

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

Ní Ghráinne, Bríd. “Internally Displaced Persons and International Law.” *International Journal of Refugee Law* 33, no. 2 (2021): 366–378.

Roberts, Adam. “The Role of Humanitarian Issues in International Politics in the 1990s.” *International Review of the Red Cross* 81, no. 833 (1999).

Sadasivan, Ashok. “Humanitarian Intervention and Sovereignty: A Case Study of NATO’s Intervention in Kosovo (1999).” *International Journal of Creative Research Thoughts* 13, no. 4 (April 2025).

Schroeder, Emily. “The Kosovo Crisis: Humanitarian Imperative versus International Law.” *The Fletcher Forum of World Affairs* 28, no. 1 (Winter 2004).

Serrano, Silvia. “From Conflict to Autonomy: The Making of the South Ossetian De Facto State.” *Caucasus Survey* 1, no. 1 (2013).

Shala, Sebahate. “The Responsibility to Protect: How the World Failed in Syria.” *World Mediation Organization Journal*, 13 March 2024.

Singh, Jasjit. “Reconceptualizing Sovereignty: The Emergence of the Responsibility to Protect (R2P) in International Law.” *Cambridge Open Engage* (3 April 2025).

Torun, Nigar. “Soviet Nationality Policy: Impact on Ethnic Conflict in Abkhazia and South Ossetia.” *Karadeniz Araştırmaları* 18, no. 70 (2021).

Udombana, Nsongurua J. “The African Commission on Human and Peoples’ Rights and the Development of Fair Trial Norms in Africa.” *African Human Rights Law Journal* 6, no. 2 (2006).

Weerasinghe, Sanjula, and Elizabeth Ferris. *Security Council, Internal Displacement and Protection: Recommendations for Strengthening Action through Resolutions*. Brookings Institution–LSE Project on Internal Displacement, September 2011.

International Case Law

International Courts

International Court of Justice (ICJ). *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, ICJ Reports 1996, p. 226, para. 25.

International Criminal Court (ICC). *Decision on the Prosecutor’s Request for Authorization of an Investigation*, ICC-01/15-12, Pre-Trial Chamber I, 27 January 2016.

International Criminal Court (ICC). *Judgment, Katanga*, ICC-01/04-01/07, Trial Chamber II, 7 March 2014.

International Criminal Court (ICC). *Judgment, Bemba*, ICC-01/05-01/08, Appeals Chamber, 8 June 2018.

International Criminal Court (ICC). *Judgment, Bemba*, ICC-01/05-01/08, Trial Chamber III, 21 March 2016.

International Criminal Court (ICC). *Judgment, Ntaganda*, ICC-01/04-02/06, Trial Chamber VI, 8 July 2019.

International Criminal Court (ICC). *Decision on the Prosecution's Request for a Ruling on Jurisdiction under Article 19(3), Bangladesh/Myanmar*, ICC-RoC46(3)-01/18, Pre-Trial Chamber I, 6 September 2018.

International Criminal Court (ICC). *Warrant of Arrest for Mikhail Mindzaev*, ICC-01/15-30, Pre-Trial Chamber I, 30 June 2022.

International Criminal Court (ICC). *Warrant of Arrest for Gamlet Guchmazov*, ICC-01/15-31, Pre-Trial Chamber I, 30 June 2022.

International Criminal Court (ICC). *Warrant of Arrest for David Sanakoev*, ICC-01/15-32, Pre-Trial Chamber I, 30 June 2022.

International Criminal Tribunal for Rwanda (ICTR). *Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgment of 2 September 1998.

International Criminal Tribunal for the former Yugoslavia (ICTY). *Krstić*, Case No. IT-98-33-A, Appeals Chamber, Judgment of 19 April 2004.

International Criminal Tribunal for the former Yugoslavia (ICTY). *Stakić*, Case No. IT-97-24-A, Appeals Chamber, Judgment of 22 March 2006.

International Criminal Tribunal for the former Yugoslavia (ICTY). *Kordić and Čerkez*, Case No. IT-95-14/2-A, Appeals Chamber, Judgment of 17 December 2004.

Regional Courts

African Commission on Human and Peoples' Rights. *Social and Economic Rights Action Center (SERAC) and Center for Economic and Social Rights v. Nigeria*, Communication No. 155/96 (2001).

African Commission on Human and Peoples' Rights. *Sudan Human Rights Organisation & Centre on Housing Rights and Evictions v. Sudan*, Communications Nos. 279/03 and 296/05 (2009).

African Commission on Human and Peoples' Rights. *Endorois v. Kenya*, Communication No. 276/2003 (2009).

European Court of Human Rights (ECtHR). *Loizidou v. Turkey*, Application No. 15318/89, Judgment of 18 December 1996.

European Court of Human Rights (ECtHR). *Cyprus v. Turkey*, Application No. 25781/94, Judgment of 10 May 2001.

European Court of Human Rights (ECtHR). *Doğan and Others v. Turkey*, Applications Nos. 8803–8811/02, Judgment of 29 June 2004.

European Court of Human Rights (ECtHR). *Kurić and Others v. Slovenia*, Application No. 26828/06, Judgment of 26 June 2012.

European Court of Human Rights (ECtHR). *Chiragov and Others v. Armenia*, Application No. 13216/05, Judgment of 16 June 2015.

European Court of Human Rights (ECtHR). *M.S.S. v. Belgium and Greece*, Application No. 30696/09, Judgment of 21 January 2011.

European Court of Human Rights (ECtHR). *Georgia v. Russia (I)*, Application No. 13255/07, Grand Chamber, Judgment of 3 July 2014.

European Court of Human Rights (ECtHR). *Georgia v. Russia (II)*, Application No. 38263/08, Grand Chamber, Judgment of 21 January 2021.

European Court of Human Rights (ECtHR). *Georgia v. Russia (IV)*, Application No. 39611/18, Judgment of 9 April 2024.

European Court of Human Rights (ECtHR). *Taganova and Others v. Georgia and Russia*, Applications Nos. 73478/12, 39624/13, 43868/13, 189/14, 370/14, and 4535/14, Judgment of 17 December 2024.

European Court of Human Rights (ECtHR). *Mamasakhlisi and Others v. Georgia and Russia*, Applications Nos. 29999/04 and 41424/04, Judgment of 14 December 2023.

European Court of Human Rights (ECtHR). *O.J. and J.O. v. Georgia and Russia*, Applications Nos. 23180/17 and 38649/17, Judgment of 7 December 2023.

European Court of Human Rights (ECtHR). *Saghinadze and Others v. Georgia*, Application No. 18768/05, Judgment of 27 May 2010.

European Court of Human Rights (ECtHR). *Apostol v. Georgia*, Application No. 30779/04, Judgment of 28 November 2006.

European Court of Human Rights (ECtHR). *Assanidze v. Georgia*, Application No. 71503/01, Grand Chamber, Judgment of 8 April 2004.

European Court of Human Rights (ECtHR). *Osman v. the United Kingdom*, Application No. 23452/94, Judgment of 28 October 1998.

Inter-American Court of Human Rights (IACtHR). *Yakye Axa Indigenous Community v. Paraguay*, Judgment of 17 June 2005.

Inter-American Court of Human Rights (IACtHR). *Mapiripán Massacre v. Colombia*, Judgment of 15 September 2005.

Domestic Case Law and Legislation

Colombia

Constitutional Court of Colombia. *Decision T-025/04*. 22 January 2004

Georgia

Constitution of Georgia. Adopted 24 August 1995, as amended to 13 October 2017.

Parliament of Georgia. *Law of Georgia on Internally Displaced Persons – Persecuted*. 28 June 1996.

Government of Georgia. *State Strategy for Internally Displaced Persons – Persecuted*. Presidential Decree No. 47, 2 February 2007.

Government of Georgia. *Resolution No. 854 on Amending Resolution No. 47*. 4 December 2008.

Government of Georgia. *Decree No. 403 on Adoption of the Action Plan for the Implementation of the State Strategy for Internally Displaced Persons – IDPs during 2009–2010*. 28 May 2009.

Government of Georgia. *IDP State Strategy Action Plan 2009*.

Government of Georgia. *Resolution No. 1551 on Approval of the Action Plan for the Implementation of the State Strategy for Internally Displaced Persons – IDPs for 2011–2012*. 3 November 2011.

Government of Georgia. *Private Order No. 257 on Approval of the Strategy on the Provision of Internally Displaced Persons (IDPs) with Access to Livelihoods*. 13 February 2014.

Government of Georgia. *Strategy on the Provision of Internally Displaced Persons with Access to Livelihoods*. Governmental Decree No. 257, 13 February 2014.

Law of Georgia on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia, No. 3351RS. Adopted 6 February 2014, entered into force 1 March 2014, as amended. Legislative Herald of Georgia.

Government of Georgia. *Resolution No. 127 on Approval of the Action Plan for the Implementation of the State Strategy for Internally Displaced Persons – IDPs for 2015–2016*. 4 February 2015.

Government of Georgia. *Resolution No. 174 on Approval of the 2017–2018 Action Plan for the Implementation of the State Strategy for Internally Displaced Persons – IDPs*. 30 March 2017.

Kenya

Republic of Kenya. *Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act*, No. 56 of 2012.

Mexico

Government of Mexico. *Ley sobre Refugiados, Protección Complementaria y Asilo Político*. *Diario Oficial de la Federación*, 27 January 2011.

Uganda

Republic of Uganda. *National Policy for Internally Displaced Persons*. Office of the Prime Minister, 2004.

Government of Uganda. *Peace, Recovery and Development Plan for Northern Uganda (PRDP) 2007–2010*. Office of the Prime Minister, 2007.

Documents from International Organizations

United Nations System

United Nations. *Charter of the United Nations*. 26 June 1945, 1 U.N.T.S. XVI.

United Nations. *Convention Relating to the Status of Refugees*. 28 July 1951, 189 U.N.T.S. 137.

United Nations. *Protocol Relating to the Status of Refugees*. 31 January 1967, 606 U.N.T.S. 267.

United Nations. *Guiding Principles on Internal Displacement*. UN Doc. E/CN.4/1998/53/Add.2, 11 February 1998.

United Nations. *Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles)*. UN Doc. E/CN.4/Sub.2/2005/17, 2005.

United Nations. *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*. G.A. Res. 60/147, 21 March 2006.

United Nations Development Programme (UNDP). *Strengthening the Rule of Law in Crisis Affected and Fragile Situations: Global Programme Annual Report 2022*. New York: UNDP, 2023.

United Nations Development Programme (UNDP). *Humanitarian Development Peace Nexus Approaches in Conflict and Disaster Settings*. New York: UNDP, 2023.

United Nations Development Programme (UNDP) Georgia. *Supporting Livelihoods for IDPs in Georgia: Project Brief*. UNDP Georgia, 2023.

United Nations Development Programme (UNDP) Georgia. *Improving the Rule of Law and Access to Justice for All (Project No. 01000205)*. UNDP Georgia, 2023.

United Nations Development Programme (UNDP) Georgia. *Tbilisi Declaration on Access to State-Guaranteed Legal Aid for Forcibly Displaced Populations*. UNDP Georgia, 2023.

United Nations Development Programme (UNDP). *Georgia Self-Reliance Fund: Pilot Initiatives for IDP Livelihoods*. UNDP/OCHA, 2001.

United Nations General Assembly. *Statute of the Office of the United Nations High Commissioner for Refugees*. A/RES/428(V), 14 December 1950.

United Nations General Assembly. *Rome Statute of the International Criminal Court*. 17 July 1998, 2187 U.N.T.S. 90.

United Nations General Assembly. *2005 World Summit Outcome*. A/RES/60/1, 24 October 2005.

United Nations General Assembly. *Protection of and Assistance to Internally Displaced Persons*. A/RES/53/125 (1998); A/RES/59/170 (2004); A/RES/72/182 (2017); A/RES/78/185 (2023).

United Nations General Assembly. *Status of Internally Displaced Persons and Refugees from Abkhazia, Georgia, and the Tskhinvali Region/South Ossetia, Georgia*. A/RES/79/291, 3 June 2025.

United Nations Human Rights Council. *Mandate of the Special Rapporteur on the Human Rights of Internally Displaced Persons*. A/HRC/RES/14/6, 23 July 2010.

United Nations Human Rights Council. *Human Rights of Internally Displaced Persons*. A/HRC/RES/6/32 (2007); A/HRC/RES/53/8 (2023).

United Nations Human Rights Council. *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons – Mission to Georgia*. A/HRC/31/54/Add.2, 2016.

United Nations Human Rights Council. *Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons, Paula Gaviria Betancur: Planned Relocation in the Context of Disasters and the Adverse Effects of Climate Change*. A/HRC/56/54, 21 April 2024.

United Nations Office for Disaster Risk Reduction (UNDRR). *Sendai Framework for Disaster Risk Reduction 2015–2030*. Geneva: UNDRR, 2015.

United Nations Office for the Coordination of Humanitarian Affairs (OCHA). *Guidance Note on Using the Cluster Approach to Strengthen Humanitarian Response*. OCHA, 2006.

United Nations Office for the Coordination of Humanitarian Affairs (OCHA). *Reducing Protracted Internal Displacement: A Snapshot of Successful Humanitarian–Development Cooperation*. OCHA, 2020.

United Nations Office for the Coordination of Humanitarian Affairs (OCHA). *Georgia: Study on IDP Rights*. OCHA, 2009.

United Nations Office for the Coordination of Humanitarian Affairs (OCHA). *Georgia: New Approach to IDP Assistance*. OCHA, 2023.

United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). *Situation Report #64 on the Situation in the Gaza Strip and the West Bank, Including East Jerusalem*. UNRWA, 15 January 2024.

UN Women. *Equal Access of IDPs to Economic Opportunities in Georgia*. UN Women, 2016.

UNHCR. *Protection of Internally Displaced Persons in Georgia: A Gap Analysis*. UNHCR, 2009.

UNHCR. *Background Paper on Refugees and Asylum Seekers from Georgia*. UNHCR, 1999.

UNHCR. *Georgia: UNHCR Global Appeal 2009 Update*. UNHCR, 2008.

UNHCR. *Georgia: Durable Housing Solutions for IDPs, Operational Update*. UNHCR, 2023.

UNHCR. *Freedom of Movement and Access to Services for IDPs, Situation Report*. UNHCR, 2023.

UNHCR. *Georgia: New Internal Displacement Action Plan*. UNHCR, 2023.

UNHCR. *Note on the Mandate of the High Commissioner for Refugees and His Office*. UNHCR, 2013.

UNHCR. *UNHCR's Mandate for Refugees and Stateless Persons and Its Role in IDP Situations*. UNHCR, 2014.

UNHCR. *Policy Framework and Implementation Strategy for UNHCR's Role in Support of an Enhanced Humanitarian Response to Situations of Internal Displacement*. UNHCR, 2007.

UNHCR. *UNHCR's Protection of Internally Displaced Persons (IDPs) under the Cluster Approach*. UNHCR, 2010.

UNHCR. *UNHCR's Role in IDP Protection: Opportunities and Challenges*. *Forced Migration Review* no. 27 (2007).

UNHCR. *Handbook for the Protection of Internally Displaced Persons*. Geneva: UNHCR, 2008.

UNHCR Executive Committee. *Conclusion on Internally Displaced Persons, No. 75 (XLV)*. 1994.

UNHCR and McGill Centre for Human Rights and Legal Pluralism. *Workshop Report: Participation of Internally Displaced Persons in Decision-Making*. 2023.

Regional Organizations

African Union. *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)*. Adopted 23 October 2009, entered into force 6 December 2012.

African Union. *Model Law for the Implementation of the Kampala Convention*. Addis Ababa, 2019.

African Union. *Plan of Action for the Implementation of the Kampala Convention*. Harare, 2017.

African Union Commission. *Guide for the Implementation of the Kampala Convention*. Addis Ababa, 2014.

African Union Commission. *Report on the 10th Anniversary of the Kampala Convention*. Addis Ababa, 2019.

Council of Europe, Committee of Ministers. *Recommendation Rec(2006)6 on Internally Displaced Persons*. 5 April 2006.

Council of Europe. *European Convention for the Protection of Human Rights and Fundamental Freedoms*, ETS No. 5, 1950, and Protocols Nos. 1 and 4.

Parliamentary Assembly of the Council of Europe (PACE). *Resolution 1633 (2008) on the Consequences of the War between Georgia and Russia*. 2 October 2008.

Parliamentary Assembly of the Council of Europe (PACE). *Resolution 1648 (2009): The Humanitarian Consequences of the War between Georgia and Russia*. 28 January 2009.

Economic Community of West African States (ECOWAS). *Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security*. Lomé, 10 December 1999.

European Union. *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third Country Nationals or Stateless Persons as Beneficiaries of International Protection (recast)*. OJ L 337, 20 December 2011.

European Union. *Regulation (EU) No. 604/2013 (recast)*. OJ L 180, 29 June 2013.

European Union Agency for Asylum (EUAA). “‘Well Founded Fear’ in EASO Practical Guide: Qualification for International Protection.” January 2022.

European Union Agency for Asylum (EUAA). “‘Persecution’ in EASO Practical Guide: Qualification for International Protection.” January 2022.

European Union Monitoring Mission in Georgia (EUMM). *Freedom of Movement Across the Administrative Boundary Lines in Georgia: EUMM Observations 2022–2023*. EUMM, 2023.

Organization for Security and Cooperation in Europe (OSCE). *Budapest Summit Declaration*. 6 December 1994.

Organization for Security and Cooperation in Europe (OSCE). “Issue 3.1: Rights of IDPs and National Responsibilities.”

Commission on Security and Cooperation in Europe (CSCE). *Georgia’s Rose Revolution*. February 2004.

Other International Organizations

International Committee of the Red Cross (ICRC). *Geneva Conventions of 12 August 1949*. 75 U.N.T.S. 31, 85, 135, 287.

International Committee of the Red Cross (ICRC). *Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol I)*. 1125 U.N.T.S. 3, 1977.

International Committee of the Red Cross (ICRC). *Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol II)*. 1125 U.N.T.S. 609, 1977.

International Committee of the Red Cross (ICRC). *ICRC Position on Internally Displaced Persons*. Geneva: ICRC, 2006.

International Committee of the Red Cross (ICRC). *Movement Policy on Internal Displacement*. Council of Delegates, 2009.

International Committee of the Red Cross (ICRC). *Internal Displacement in Armed Conflict: Facing up to the Challenges*. Geneva: ICRC, 2009.

International Committee of the Red Cross (ICRC). *Customary International Humanitarian Law, Volume I: Rules*. Edited by Jean-Marie Henckaerts and Louise Doswald-Beck. Cambridge: Cambridge University Press, 2005.

International Committee of the Red Cross (ICRC). *Restoring Family Links: Responding to the Needs of the Missing and Their Families*. Geneva: ICRC, 2016.

International Committee of the Red Cross (ICRC). *Stocktaking on the Kampala Convention: 2016 Report*. Geneva: ICRC, 2016.

International Committee of the Red Cross (ICRC). *Urban Services During Protracted Armed Conflict: A Call for a Better Approach to Assisting Affected People*. Geneva: ICRC, 2021.

International Law Association (ILA). *Report of the Committee on Internally Displaced Persons and Resolution No. 17/2000 on Internally Displaced Persons*. London: ILA, 2000.

International Law Commission (ILC). *Draft Articles on the Protection of Persons in the Event of Disasters, with Commentaries*. Yearbook of the International Law Commission, 2016, vol. II, Part Two.

International Organization for Migration (IOM). *Internal Displacement in the Context of the Slow Onset Adverse Effects of Climate Change*. Geneva: IOM, 2020.

International Organization for Migration (IOM). *Internal Displacement Data Strategy 2021–2025*. Geneva: IOM, 2021.

International Organization for Migration (IOM). *Ukraine Internal Displacement Report: General Population Survey, Round 20*. Kyiv: IOM, 2025.

World Bank Group. *Identification for Development (ID4D) Initiative: Identification as a Gateway to Rights and Services*. Washington, DC: World Bank, 2018.

World Bank. *Tackling Forced Displacement as a Development Challenge*. Washington, DC: World Bank, 2023.

World Food Programme (WFP). “WFP Chief Visits Palestine and Israel, Calls for Immediate Surge of Aid into Gaza and Safe Access to Reach the Most Vulnerable Families.” WFP, 28 August 2025.

NGOs and Other Entities

Amnesty International. *Civilians in the Line of Fire: The Georgia–Russia Conflict*. Amnesty International, 2008.

Amnesty International. *Georgia’s Breakaway South Ossetia/Tskhinvali Region: Human Rights Under Russian Occupation*. EUR 56/3158/2020.

Amnesty International. *In the Waiting Room: Internally Displaced People in Georgia Still Waiting for Durable Solutions*. EUR 56/003/2010.

Caucasus Institute for Peace, Democracy and Development (CIPDD). *The Impact of the IDP Status in Georgia*. Tbilisi: CIPDD, 2018.

Caucasus Research Resource Centers (CRRC). *Perceptions of IDP Integration in Georgia: Focus Group Report*. CRRC, 2011.

Caucasus Research Resource Centers (CRRC). *Political Engagement of Internally Displaced Persons (IDPs) in Georgia*. CRRC, 2023.

Caucasus Research Resource Centers (CRRC). *Political Engagement of Internally Displaced Persons (IDPs) in Georgia – Reality, Challenges, and Standards*. EU Neighbours East/CRRC, 2024.

Caucasus Research Resource Centers (CRRC). *Survey on the Socio-Economic Conditions and Attitudes of IDPs in Georgia*. CRRC, 2012.

Conciliation Resources. *Survival Strategies of the Poor and Marginalised: A Study of IDP Livelihoods in Georgia*. London: Conciliation Resources, 2012.

Eastwatch. “Occupied – Russian Occupation and Creeping Annexation in Georgia.” Eastwatch, 2023.

Georgian Young Lawyers’ Association (GYLA). *Annual Human Rights Report 2022: Georgia*. Tbilisi: GYLA, 2023.

Global Centre for the Responsibility to Protect. *Libya and the Responsibility to Protect*. New York: GCR2P, 2011.

Global Protection Cluster. *Global Protection Cluster Strategy 2025–2030*. Geneva: GPC, 2025.

Global Protection Cluster. *Handbook for the Protection of Internally Displaced Persons*. Geneva: GPC, 2010.

Global Protection Cluster and The Carter Center. *Public and Political Participation of Internally Displaced Persons: Report of a RoundTable*. Geneva: GPC, 2018.

Human Rights Center (HRC). *Justice Delayed: The ICC and the Rights of Displaced Persons in Georgia*. Policy Brief, 2022.

Human Rights Watch. *Georgia/Abkhazia: Violations of the Laws of War and Russia's Role in the Conflict*. March 1995.

Human Rights Watch. *Living in Limbo: The Rights of Ethnic Georgian Returnees to the Gali District of Abkhazia*. July 2011.

Human Rights Watch. *Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*. January 2009.

Human Rights Watch. *World Report 1995: Georgia*. Human Rights Watch, 1995.

Internal Displacement Monitoring Centre. *Arbitrary Displacement: Legal Standards and Interpretations*. Geneva: IDMC, 2010.

Internal Displacement Monitoring Centre. *Georgia: IDP Figures Analysis*. Geneva: IDMC, 2019.

Internal Displacement Monitoring Centre. *Georgia: IDPs in Protracted Displacement Need Durable Housing and Livelihood Solutions*. Geneva: IDMC, 2019.

Internal Displacement Monitoring Centre. *Gender Dynamics in Internal Displacement*. Geneva: IDMC, 2023.

Internal Displacement Monitoring Centre. *Global Report on Internal Displacement*. Geneva: IDMC, multiple years (2010–2025).

Internal Displacement Monitoring Centre. *Home Sweet Home: Housing Practices and Tools that Support Durable Solutions for Urban IDPs*. Geneva: IDMC, 2015.

Internal Displacement Monitoring Centre. *Sudan – The World's Largest Internal Displacement Crisis Deepens*. Geneva: IDMC, 2025.

Internal Displacement Monitoring Centre. *Twice Invisible: Women and Girls in Internal Displacement*. Geneva: IDMC, 2020

International Crisis Group. *Georgia: Avoiding War in South Ossetia*. Europe Report No. 159. Brussels: ICG, 2004.

Norwegian Refugee Council (NRC). *Durable Housing Solutions for IDPs in Georgia*. NRC, 2014.

Norwegian Refugee Council (NRC). *Internal Displacement in Georgia: Background Paper for the UPR*. NRC, 2009.

Norwegian Refugee Council and World Bank Group. *Legal Identity in Forced Displacement Contexts*. NRC/WBG, 2021.

Security Council Report. “UN High Commissioner for Refugees.” *Monthly Forecast*, April 2025.

Stabilization Support Services. “IDP Councils Portal Launched in Ukraine.” *Interfax-Ukraine*, March 28, 2024.

The Foreign Policy Centre. “Georgia’s Responses to ‘Borderisation’.” London: FPC, 2020.

The Share Trust. *As the Humanitarian Reset Unfolds: What Will Local Leadership Look Like in Practice?* The Share Trust, 2025

Other Sources (News Articles, Websites, Speeches)

Cardona Fox, Gabriel. *The Politics of IDP Data: Improving the Use of IDP Data and Evidence*. Internal Displacement Research Programme, Submission to the High Level Panel on Internal Displacement, 2020.

Civil.ge. . “IDPs Protest in Tbilisi over Housing.” Civil Georgia, 2007.

Civil.ge. . “UN General Assembly Passes Georgia IDP Resolution.” 3 June 2025. <https://civil.ge/archives/685113..>

Deng, Francis M. *Introductory Note to the Guiding Principles on Internal Displacement*. UN Doc. E/CN.4/1998/53/Add.2, 11 February 1998.

Eastwatch. “Occupied – Russian Occupation and Creeping Annexation in Georgia.” [https://occupied.eastwatch.eu/..](https://occupied.eastwatch.eu/)

HERE Geneva. *Lost in Sudanisation? What It Means to Apply a Principled Humanitarian Approach in the Response to the Crisis in Sudan*. HERE Geneva and Sudan INGO Forum, April 2025.

International Criminal Court. *Situation in Georgia: ICC Pre-Trial Chamber Delivers Three Arrest Warrants*. Press Release, 30 June 2022.

International Criminal Court, Office of the Prosecutor. *Report on Preliminary Examination Activities 2015*. The Hague: ICC, 12 November 2015.

International Criminal Court, Office of the Prosecutor. *Statement of the Prosecutor of the International Criminal Court, Karim A.A. Khan KC, on the Conclusion of the Investigation Phase in the Situation in Georgia*. 16 December 2022. <https://www.icc-cpi.int/georgia..>

International Crisis Group. *Abkhazia: Ways Forward*. Europe Report No. 176, 2006.

Norwegian Refugee Council. *Barriers from Birth: Undocumented Children in Iraq Sentenced to a Life on the Margins*. Oslo: NRC, 2015.

Organization for Security and Co-operation in Europe (OSCE). “Issue 3.1: Rights of IDPs and National Responsibilities.” OSCE.

Refugees International. *Internal Displacement: An Agenda for Progress*. Washington, DC: Refugees International, 2021.

Refugees International. *Siege and Starvation: How Israel Obstructs Aid to Gaza*. Washington, DC: Refugees International, 2025.

Sadako Ogata. *Statement at the Norwegian Government Roundtable Discussion on United Nations Human Rights Protection for Internally Displaced Persons*, 5 February 1993. In *Compilation of Statements by the United Nations High Commissioner for Refugees*. Geneva: UNHCR, 1993.

Sadako Ogata. *Statement to the 52nd Session of the United Nations Commission on Human Rights*. Geneva, 20 March 1996.

Sadako Ogata. “Protecting People on the Move.” Address at the Center for the Study of International Organization, New York, 18 July 2000.

Secretaría Distrital de Planeación. “Distrito instala la Mesa de Participación Ciudadana para la formulación del Plan Distrital de Desarrollo 2024–2028.” Bogotá, 4 April 2024.

Stabilization Support Services. “IDP Councils Portal Launched in Ukraine.” Interfax Ukraine, 28 March 2024.

UNHCR. “Brazil Applies Cartagena Criteria to Venezuelan Refugees.” UNHCR, 24 July 2019.

UNHCR. “Internally Displaced People | UNHCR Iraq.” <https://www.unhcr.org/iq/internally-displaced-people..>

UN News. “Aid Insufficient to Avert Widespread Starvation as Israeli Restrictions Persist.” UN News, 15 August 2025.

United States Committee for Refugees and Immigrants. *World Refugee Survey 1999: Sudan*. Washington, DC: USCRI, 1999.

World Mediation Organization Journal. Shala, Sebahate. “The Responsibility to Protect: How the World Failed in Syria.” 13 March 2024.

