***Legal Analysis Methodology [Template]***

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**A. Acronyms and Abbreviations**

*[Table to be amended according to the country of reference and the relevant applicable framework.]*

|  |  |
| --- | --- |
| AfCHPR | African Charter on Human and Peoples’ Rights |
| AfCRWC | African Charter on the Rights and Welfare of the Child |
| AU | African Union |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CRC | Convention on the Rights of the Child |
| CRPD | Convention on the Rights of Persons with Disabilities |
| (1949) GENEVA CONVENTIONS | The four Geneva Conventions that establish the standards of International Law for humanitarian treatment in war  |
| GENEVA CONVENTION IV | Convention relative to the Protection of Civilian Persons in Time of War |
| ICCPR | International Covenant on Civil and Political Rights |
| ICERD | International Convention on the Elimination of the Racial Discrimination |
| ICESCR | International Covenant for Economic, Social and Cultural Rights |
| IDPs | Internally Displaced Persons |
| IHL | International Humanitarian Law |
| KAMPALA CONVENTION | African Union Convention on the Protection and Assistance of Internally Displaced Persons |
| PARIS PRINCIPLES | Principles relating to the Status of National Institutions |
| PINHEIRO PRINCIPLES | Principles on Housing and Property Restitution for Refugees and Displaced Persons |

**B. Introduction**

1. ***Scope and Methodology of the Legal Analysis***

[*Amend or adapt methodology of the legal analysis according to the situation applicable to the country of reference, and the agreements in place with the government and other parties involved in the process*]

This project aims to:

1. verify if the existing domestic legal and policy framework provides for a sufficient basis to ensure the protection of IDPs, and address their specific rights, needs and vulnerabilities; and
2. to identify gaps and highlight potential overlaps in the prevention, protection and assistance of internally displaced persons, as well as in the provision of durable solutions.

The legal analysis will focus on [\_\_ADD NUMBER\_\_] thematic areas of regulation that are deemed essential to ensuring an adequate response to internal displacement, one chapter for each thematic area. Each chapter will first set out the relevant minimum essential elements identified in the Manual for Law and Policymakers and addresses the protections IDPs should expect to enjoy under the Kampala Convention and the other supranational normative frameworks. Each chapter will then consider the extent to which the minimum essential elements and these protections are provided for by [\_\_\_\_\_\_\_\_\_\_\_\_\_] normative framework and provides recommendations considering the relevant legal instruments in light of the situational context. A distinction is always made between recommendations on normative action and on implementation.

In addition to supranational instruments specific to internal displacement, further international and regional legal instruments are referred to where relevant in the thematic chapters. These include: the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the UN Convention on the Rights of the Child and the Optional Protocol on the Involvement of Children in Armed Conflict, the UN Convention on the Elimination of All Forms of Discrimination Against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of Persons with Disabilities, the Geneva Conventions and Additional Protocols, the Pinheiro Principles, the Paris Principles relating to the status of national institutions, the UN Development-Based Evictions Guidelines, etc. [*Add any relevant international or regional instrument that is applicable to the country of reference for the study / e.g. the African Charter on Human and Peoples’ Rights, the African Charter on the Rights and the Welfare of the Child, the Protocol on the Rights of Women in Africa and the African Union Constitutive Act*].

The analysis on the national framework in [\_\_\_\_\_\_\_\_\_\_\_\_\_] is conceived as part of a series of country studies that may be included in a broader research on different frameworks [globally/at the regional level], and the recurring gaps and obstacles in national systems for the protection and assistance of IDPs. To this end, the focus areas identified for this study could also constitute the common reference grid to conduct the envisaged comparative analysis.

**C. General Thematic Chapters**

1. ***Definition of IDPs***

**General Overview**

In order to assess and identify people in need of assistance and apply the relevant legal and policy framework on internal displacement, it is pivotal to define IDPs in national law. IDPs are – and remain – citizens or habitual residents of their own country, and thus are entitled to all the rights and guarantees on that basis alone. It follows that the importance of defining IDPs under domestic law does not relate to the creation of a specific legal status for displaced persons to be granted or refused in individual cases, but rather to the description of the circumstances and situations that will trigger IDP laws and policies applicability.

**Minimum Essential Element**

*Adopt a concept of an IDP that is consistent with, and not narrower than, that used in the U.N. Guiding Principles. The definition of IDP must not create a specific legal status that is granted, refused or ceased in individual cases; it should serve as a factual description of the circumstances of a person that is used to determine the applicability of IDP laws and policies.*

**Key Pieces of Applicable Legislation**

International legal framework:

* UN Guiding Principles on Internal Displacement: Introduction (point 2).

Regional legal framework:

* Kampala Convention: art. 1 (k);
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Question**

Does domestic law provide for a definition of IDPs that is consistent with, and not narrower than, that used in the UN Guiding Principles (and the Kampala Convention where relevant)?

1. ***Protection against Discrimination***

**General Overview**

Equality and Non-discrimination are key elements and principles of International Human Rights law, and they are deemed as essential to any system of human rights protection.

With regards to internal displacement, there are two main issues that are relevant:

1. Discrimination vis-à-vis non-displaced persons, meaning that IDPs could be discriminated against because of their condition of displacement, as well as their race, color, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, or birth or any similar criteria. The adoption of special measures to address the protection and assistance needs of IDPs is not precluded nor prohibited by the non-discrimination principle;
2. Discrimination among displaced persons and protection of vulnerable IDPs, on the ground of their race, color, sex, gender, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, or birth or any similar criteria.

**Minimum Essential Element**

*Recognize the right of any IDP to be protected against discrimination on the ground that he or she is internally displaced as well as against discrimination in relation to other IDPs or non-displaced individuals and communities on any ground such as race, color, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, or birth or any similar criteria.*

**Key Pieces of Applicable Legislation**

International legal framework:

* CEDAW: art. 1, art. 2;
* CRC: art. 2;
* CRPD: art. 2, art. 4;
* 1949 Geneva Conventions: common art. 3;
* ICCPR: art. 2, art. 26;
* ICERD: art. 1, art. 2, art. 6;
* ICESCR: art. 2;
* Pinheiro Principles: Principle 3;
* UDHR: art. 7;
* UN Guiding Principles on Internal Displacement: Principle 1 (1), Principle 29 (1).

Regional legal framework:

* AfCHPR: art. 2, art. 3;
* AfCRWC: art. 3;
* Protocol to the AfCHPR on the Rights of Women in Africa: art. 2;
* Kampala Convention: art. 3 (1)(d), art. 4 (4)(a), art. 5 (1), art. 9 (1)(a), art. 9 (2)(a);
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and policy acts in place in the country of reference].*

**Research Questions**

Does the national legal framework contain provisions that explicitly recognize the right of any IDP to be protected against discrimination on the ground that he or she is internally displaced?

Does the national legal framework include a prohibition of discrimination for displaced or non-displaced individuals on any ground such as race, color, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, or birth or any similar criteria?

And, in particular, do applicable provisions explicitly state that discrimination “*based on displacement*” and “*against IDP*s” is prohibited, or rather contain a general prohibition on discrimination that could implicitly protect the different groups of persons within the displaced population from discrimination?

1. ***Prevention of Displacement and Prohibition against Arbitrary Displacement***

**General Overview**

The right to freedom of movement and to establish one’s own residence – together with the right to be protected against arbitrary interference with one’s own homes, family, privacy, and to legal security of tenure – is recognized to every person under International Human Rights law regardless of their sex, age and abilities.

Protection against forced evictions – including arbitrary displacement – has to be granted by States, as provided for under International law.

**Minimum Essential Elements**

*Recognize the right to be free from arbitrary displacement.*

*Penalize arbitrary displacement in domestic law under circumstances in which it amounts to a crime against humanity or war crime in accord with the Rome Statute.*

*Take penal and administrative measures to ensure compliance with relevant rules of IHL, including rules on the conduct of hostilities and the duty to distinguish between civilians and combatants and between civilian objects and military objectives.*

*Include in national development plans and resettlement policies a clear articulation that forced displacement or relocation induced by development projects must be authorized by law, justified by compelling and overriding public interests, necessary to protect these interests and carried out with full respect for the human rights of affected persons. Also include provisions on procedures by which any such displacement or relocation will be effectuated, available remedies including resettlement and compensation, and the right to administrative or judicial review.*

**Key Pieces of Applicable Legislation**

International legal framework:

* Basic Principles and Guidelines on Development-Based Evictions and Displacement: Paragraph II (B);
* CRPD: art. 14, art. 18;
* 1949 Geneva Conventions: common art. 3;
* ICCPR: art. 12;
* ICERD: art. 5 (d)(ii) and (d)(v);
* ICESCR: art. 11;
* Optional Protocol to the CRC on the Involvement of Children in Armed Conflict: art. 1, art. 2, art. 3;
* Pinheiro Principles: Principle 2, Principle 5, Principle 9;
* UN Guiding Principles on Internal Displacement: Section 2.

Regional legal framework:

* AfCHPR: art. 12, art. 14;
* Kampala Convention: art. 3, art. 4, art. 7 (5)(a), art. 10 (1);
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Is the right to be free from arbitrary displacement explicitly recognized under the domestic legal framework?

Are acts of arbitrary displacement criminalized under domestic law when they amount to crimes against humanity or war crimes, as defined by the Rome Statute? Are domestic criminal and administrative measures in place to ensure compliance with IHL provisions on the conduct of hostilities?

Do national disaster policies focus solely on response mechanisms, or also set forth a disaster risk reduction and preparedness strategy? Are the specific needs of women and girls included in national disaster policies and strategies? Do national development plans and resettlement policies include a clear framework regulating forced displacement and relocation induced by development projects? In particular, it should be ensured that forced displacement and relocation in such cases are authorized by law, justified by compelling and overriding public interests, necessary, and performed with full respect for the human rights of the people concerned. All population groups need to be consulted.

Are remedies such as resettlement and compensation made available to the displaced persons regardless of their sex, age and abilities? Are IDPs granted the right to seek administrative or judicial review as well?

1. ***Data Collection relating to IDPs***

**General Overview**

It is pivotal that the State collects data relating to IDPs and, in particular, information concerning the number, locations and conditions (needs, vulnerabilities, etc.) of displaced people in order to meet IDPs’ needs for protection and assistance. Data collection ensures an effective implementation of the relevant laws and policies and a correct allocation of resources to target the specific necessities and major conditions of vulnerability of IDPs. Data collection processes should start from the moment of displacement and be regularly updated in order to avoid obsolete data that do not reflect the actual situation.

Data collection must ensure SADD (sex and age disaggregated data); and data from disabled and other vulnerable groups should be disaggregated as well.

**Minimum Essential Element**

*Establish systems for the collection and protection of relevant data.*

**Key Pieces of Applicable Legislation**

International legal framework:

* Basic Principles and Guidelines on Development-Based Evictions and Displacement: Paragraph II (B)(33).

Regional legal framework:

* Kampala Convention: art. 5 (5), art. 13;
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Question**

Does domestic legislation establish a national system for the collection of disaggregated data relating to IDPs? Is the system compliant with the relevant provisions for data management and protection?

1. ***National and Local Structures for Governance for IDP Response, including Coordination Mechanisms***

**General Overview**

States have the primary duty and responsibility for providing protection of and assistance to IDPs that are within their territory.

The Kampala Convention itself recommends that States identify an inclusive and representative body serving as national focal point for the coordination of the IDP response among the different governmental authorities involved and actors such as national human rights institutions, civil society organizations, NGOs and international humanitarian agencies. The entity governing the IDP response should have the following features: a broad mandate, adequate financial and human resources (a gender-sensitive budgeting is desirable), be gender-balanced and sufficient political power to adopt significant decisions.

Furthermore, effective aid delivery should be ensured by coordinated and harmonized interventions between State bodies and humanitarian partners. Access of humanitarian aid should be facilitated by State authorities.

**Minimum Essential Elements**

*Designate an institutional focal point for IDP issues at the national level and, where appropriate, sub-national level.*

*Provide for the allocation of necessary human and financial resources.*

*Vest an institution such as the National Human Rights Commission or the Ombudsperson’s Office with the authority and responsibility to monitor and report on the respect and protection of the rights of IDPs.*

*Provide for measures that cover all three phases of displacement: to prevent or minimize displacement (e.g., disaster mitigation and preparedness plans, training of security forces); to respond to in the immediate displacement phase; and to establish conditions necessary for the achievement of durable solutions.*

*Provide the necessary legal basis for cooperation with national and international humanitarian partners, including provisions to facilitate the immediate entry of humanitarian personnel and goods, such as the waiver of regular visa and customs requirements.*

*Facilitate the import and internal transport of humanitarian goods not sufficiently available domestically (e.g., by waiving or relaxing import restrictions and quotas; customs duties and other taxes) and the speedy entry of foreign humanitarian workers and organizations to the country (e.g., by streamlining visa requirements; expediting permits).*

*Provide for the criminal penalization of attacks by state as well as non-state actors against humanitarian relief personnel and their material, transport and supplies where such attacks would amount to a war crime under the Rome Statute.*

*Provide, in the aftermath of an armed conflict, other situations of violence or natural or man-made disasters for humanitarian assistance for a transitory period as well measures to re-establish food security, provision of water and sanitation, health services, and education at the locations where IDPs find durable solutions.*

**Key Pieces of Applicable Legislation**

International legal framework:

* Basic Principles and Guidelines on Development-Based Evictions and Displacement: Principle V (52);
* 1949 Geneva Convention IV: common art. 3 (2), art. 10, art. 59;
* Paris Principles: Principle 1, Principle 2, Principle 3;
* UN Guiding Principles on Internal Displacement: Principle 3, Principle 24 (2), Principle 25, Principle 30.

Regional legal framework:

* AfCHPR: article 26;
* Kampala Convention: art. 3 (1)(j) and 3 (2)(b), art. 5, art. 9 (3), art. 11 (3);
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Does domestic legislation identify a clear institutional focal point responsible for managing IDP issues due to all causes at the national and sub-national level? Does domestic legislation identify a coordination mechanism for the provision of adapted humanitarian assistance to IDPs depending on their sex, age and abilities?

Does the IDP response devised by national and local structures provide for a strategy that covers all three phases of displacement?

Are MoUs or other arrangements providing a legal basis for cooperation with national and international humanitarian partners in place (including waiver of regular visa requirements for humanitarian staff as well as lifting of custom requirements on goods)?

Are attacks by State as well as Non-State actors against humanitarian staff and their material, transport and supplies subject to non-discriminatory criminal sanctions under national law?

1. ***Allocation of Financial and Human Resources, including Training and Capacity Building***

**General Overview**

The national legal and policy framework on the IDP response should be complemented with an adequate allocation of both human (gender-balanced) and financial (GRB – gender-responsive budgeting is desirable) resources intended specifically for the assistance and protection response in situations of internal displacement. For the response to be efficient, effective and non-discriminatory in addressing the IDPs’ needs and vulnerabilities, mechanisms and procedures should be put in place beforehand.

Both international and regional instruments on internal displacement affirm that it is State’s primary duty and responsibility to provide protection and humanitarian assistance to IDPs. Awareness raising activities, and capacity-building and training programmes on the rights of IDPs are important elements that contribute to the mitigation and resolution of displacement.

**Minimum Essential Elements**

*Create a mechanism responsible for coordinating the provision of humanitarian assistance to IDPs.*

*Assign to relevant authorities or organizations at the national and local levels clear and specific obligations in the area of humanitarian assistance to IDPs, and provide them with the necessary means to do so.*

*Provide for measures to raise awareness of the existence and nature of internal displacement and provide targeted training on the rights of IDPs.*

**Key Pieces of Applicable Legislation**

International legal framework:

* Basic Principles and Guidelines on Development-Based Evictions and Displacement: Principle II (D)(34);
* Pinheiro Principles: Principle 10 (4), Principle 12;
* UN Guiding Principles on Internal Displacement: Principle 3, Principle 28.

Regional legal framework:

* Kampala Convention: art. 3 (2)(d), art. 3 (3), art. 5 (6);
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Are relevant authorities at the national and local levels - those with clear responsibilities and obligations in the area of humanitarian assistance to IDPs - provided with dedicated gender-balanced human and gender-responsive financial resources to deliver?

Are measures to raise awareness on the existence and nature of internal displacement and targeted trainings on the rights of IDPs planned and effectively carried out at all levels of government on a regular basis?

1. ***Recognition, Issuance and Replacement of Documents***

**General Overview**

Identity documentation of IDPs is often lost during displacement; and marginalized groups of IDPs may have never possessed such documents. In yet other instances, IDPs may face difficulties to access the competent authorities for re-issuance of them, or may not be able to afford the fees applied for replacement documentation. Internally displaced women may actually face greater difficulties, and are often subjected to sexual exploitation and abuse.

However, IDPs’ exercise of legal rights and access to basic services are very much contingent on the exhibition of documents such as ID cards, birth and marriage certificates, or educational diplomas, as well as their sex, age and abilities. The lack of adequate procedures for issuing, reissuing or renewing essential documentation to IDPs may lead to violations of their rights and restrictions and/or discrimination in the access to essential services, hindering their ability to attain a durable solution to displacement through local integration or return to their place of origin.

**Minimum Essential Elements**

*Establish institutional mechanisms and facilitated procedures for issuing or reissuing essential documentation to IDPs through facilitated procedures, including use of official records and alternative forms of evidence available to IDPs.*

*Ensure that, were appropriate and necessary, the issuance of “IDP cards” for purposes of identification and access to specific assistance is carried out in a rapid and accessible process.*

**Key Pieces of Applicable Legislation**

International legal framework:

* CEDAW: art. 9;
* CRC: art. 7;
* CRPD: art. 18 (2);
* ICCPR: art. 16, art. 24;
* UDHR: art. 15;
* UN Guiding Principles on Internal Displacement: Principle 20.

Regional legal framework:

* AfCHPR: art. 5;
* AfCRWC: art. 6;
* Kampala Convention: art. 11 (4), art. 13;
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Are there institutional mechanisms and rapid facilitated procedures for issuing or reissuing essential documentation to IDPs, without imposing unreasonable conditions, such as requiring the return to one's area of residence? Are existing mechanisms and procedures equally accessible to women as they are to men of all ages and abilities?

Is identification documentation for IDPs issued for free, or subsidized by the government in order to avoid costs that not all IDPs can afford?

1. ***Freedom of Movement***

**General Overview**

Every internally displaced person regardless of their sex, age and abilities is entitled to movement-related rights, although displacement itself represents a restriction of the freedom of movement. In particular, IDPs have the right to flee to seek safety in another part of the country, to move freely and to choose a place of residence within the country without facing unjustified and unlawful legal, administrative or practical barriers.

Lack of freedom of movement can have severe negative consequence on the lives, health and well-being of displaced persons. It may result in limited access to work, markets, land and basic necessities as well as life-saving services, such as education and health care, and therefore hinder the ability of IDPs to secure a sustainable livelihood. It may as well lead to the separation of families, or hamper procedures for family reunification. Usually, internally displaced women may face a higher lack of freedom of movement.

Freedom of movement is also a pre-condition for the achievement of a durable solution following displacement. Displaced persons of all sex, age and ability groups should fully participate in the planning and management of their return to the place of origin, local integration in the place of displacement or resettlement in another part of the country. In order to avoid forced returns or relocations, the principle of principle of voluntariness of movement should be respected, by ensuring that IDPs are given accurate and objective information and make free individual decisions, with women exercising this right on equal basis with men.

**Minimum Essential Elements**

*Recognize IDPs’ right to freedom of movement, including specifically the rights to seek safety in another part of the country and to be protected against forced return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.*

*Abolish administrative obstacles that may exist, limiting the possibility of IDPs to reach safe areas or, when conditions allow, to return to their homes.*

*Recognize the right of all IDPs to make a voluntary and informed choice between return, integration at the location of displacement or resettlement/relocation in another part of the country.*

*Provide for specific measures (such as humanitarian demining, re-deployment of police forces, or demobilization drives in return areas) to ensure safety and security for returning IDPs.*

**Key Pieces of Applicable Legislation**

International legal framework:

* CEDAW: art. 15 (4);
* CRPD: art. 18;
* 1949 Geneva Convention IV: art. 49;
* ICCPR: art. 12;
* ICERD: art. 5 (d)(i);
* Pinheiro Principles: Principle 9, Principle 10;
* UDHR: art. 13;
* UN Guiding Principles on Internal Displacement: Principles 6 (3), Principle 12, Principle 14, Principle 15, Principle 28 (1).

Regional legal framework:

* AfCHPR: art. 12;
* Kampala Convention: art. 4, art. 7 (5)(d), art. 9 (2)(f), art. 11;
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Does the national legislation recognize that displacement must be an exception to the freedom of movement and to choose one’s own residence, and that unlawful restrictions to such right may amount to arbitrary displacement*?*

Does the national legislation recognize IDPs’ right to freedom of movement and, in particular, grant the right to seek safety in another area of the country, to leave the country and to seek asylum in another country and to be protected against forced return to, or resettlement in any place where they could be in danger?

Do current domestic provisions include legal and/or administrative obstacles to the possibility of IDPs to reach safe areas, or to return to their homes?

Do women and girls face specific restrictions to their freedom of movement? Do vulnerable groups face specific restrictions to their freedom of movement?

Does the national legislation foresee the right for all IDPs to make a voluntary and informed choice between return, integration at the location of displacement or resettlement in another part of the country?

Does it contain specific provisions that foresee measures to ensure long term safety and security for returning IDPs?

1. ***Participation of IDPs and Electoral Rights***

**General Overview**

Ensuring the participation of internally displaced persons of different sex, age and abilities in all matters affecting them is a pivotal element of the IDP response. On the one hand, the active involvement and consultation of IDPs in decision-making processes enables government to gather reliable information on the conditions and needs faced by IDPs and to seek common and shared solutions to displacement and related issues. On the other, IDPs have the right to participate in the political process of their country, in accordance with the human right to freedom of expression and political participation enshrined in International law.

Women and girls have to be included and participate in decision-making bodies, since they are the ones that can better identify and address their needs and challenges.

Participation in public and political life is an important element for the protection of IDPs, since it represents a way to express their views and opinions and ask for active engagement on displacement issues to national and local authorities. Due to the fact that IDPs are citizens of the country in which they are displaced, they have the formal right to vote and stand for election even after displacement has occurred. In practice, however, the exercise of their political rights is often hampered by significant obstacles, such as:

1. Due to the fact that voter eligibility is tied to the place of residence, IDPs are not allowed to cast their votes in the locality of their displacement;
2. During the electoral process, IDPs are not provided with the necessary information, voting facilities and/or security support to exercise their right to vote;
3. Some voter registration requirements – such as the need to exhibit ID cards – are often difficult to meet for IDPs.

**Minimum Essential Elements**

*Ensure the consultation and participation of IDPs in all matters affecting them during all phases of displacement, and provide sufficient information on such matters to enable them to make voluntary and informed decisions about their future.*

*Provide mechanisms for IDPs being registered as a voter even during displacement, such as through facilitated procedures to maintain existing registration, to transfer registration, and/or to waive requirements that would prevent IDPs from registering at the site of displacement.*

*Allow IDPs to cast their vote at the location of displacement, for either the constituency of origin (absentee vote) or the constituency of displacement.*

**Key Pieces of Applicable Legislation**

International legal framework:

* CEDAW: art. 7;
* CERD: art. 5 (c);
* CRC: art. 12;
* CRPD: art. 29;
* ICCPR: art. 25;
* UDHR: art. 21;
* UN Guiding Principles on Internal Displacement: Principle 22, Principle 29.

Regional legal framework:

* AfCHPR: art. 13;
* Kampala Convention: art. 9 (2)(k) and (2)(l), art. 10 (2), art. 11 (2), art. 13 (2);
* Protocol to the AfCHPR on the Rights of Women in Africa: art. 9;
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Are there inclusive mechanisms to facilitate the registration of IDPs as voters during displacement? Do existing provisions allow – or forbid – IDPs from standing for elections as candidates? Do existing provisions allow – or forbid – internally displaced women from standing for elections as candidates?

Also, are women of all ages and abilities granted full, equal and effective participation on equal terms with men?

1. ***Right to Family Life***

**General Overview**

The right to family life and family unit is a fundamental human right that should be granted to IDPs, by acting to preserve family unit, pursue family reunification, determine the fate of missing family members, and ensure adequate living conditions through the provision of housing.

It is worth noting that the concept of family of displaced persons may include not only persons in direct legal or natural relationships, but also extended networks of people which may have been pillars of support, especially in the difficult times of displacement. This may require more attentive protection considerations.

**Minimum Essential Elements**

*Recognize or reaffirm the right of IDPs to family unity.*

*Assign responsibilities to governmental agencies to search for and reunite members of families who have become separated in the course of displacement; and/or to seek support from the international community for this task.*

*If necessary, create national mechanisms responsible for investigate the fate of missing persons and to provide information and, wherever possible, mortal remains and personal effects to survivors; and/or to seek support from the international community for this task.*

**Key Pieces of Applicable Legislation**

International legal framework:

* Basic Principles and Guidelines on Development-Based Evictions and Displacement: Principle II (B)(13), Principle V (52);
* CRC: art. 9, art. 16;
* CRPD: art. 22, art. 23;
* ICCPR: art. 17, art. 23;
* ICESCR: art. 10, art. 11;
* UDHR: art. 12;
* UN Guiding Principles on Internal Displacement: Principle 16, Principle 17.

Regional legal framework:

* AfCHPR: art. 18;
* AfCRWC: art. 19 (1);
* Kampala Convention: art. 7 (5)(c), art. 9 (2)(c) and 2(h);
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Is the right to family life and family unit for displaced persons provided for by the relevant national legislation?

Are government agencies tasked with the duty to search for and reunite members of families who have become separated in the course of displacement, with inclusive and non-discriminatory defined procedures to investigate on the fate of missing persons?

1. ***Housing, Land and Property***

**General Overview**

Displacement entails a major disruption in human living, and a pivotal element in IDP responses is the achievement of durable solutions, ensuring that a person no longer has specific assistance or protection needs linked to his or her displacement and can fully enjoy his or her rights.

Recovery of lost property and security of tenure for housing and land are essential to achieve durable solutions. IDP’s property should be protected from unlawful appropriation, occupation or other forms of damage during the displacement period, and procedures for restitution of such property upon return must be established. A special attention should be put on women’s rights in relation to land tenure.

IDPs are therefore entitled to equal housing, land and property rights, which are enshrined in many international human rights instruments. Among others, the right to housing is essential in order to achieve adequate standard of living and to live in security, protected against forced evictions or other forms of harassment. Indeed, once housing is secured, displaced people have access to basic services and infrastructures (e.g. access to water, washing facilities, energy for cooking, etc.); are physically safe and protected from meteorological phenomena; and may as well have access to employment options, health care services, child-care centres, and other social facilities in the surrounding area.

Securing equal adequate housing addresses one of IDPs’ most important needs and, at the same time, it may contribute to the prevention of further displacement.

**Minimum Essential Elements**

*Recognize the right to basic shelter and adequate housing for IDPs.*

*Designate a governmental agency responsible for addressing shelter and housing needs of displaced persons.*

*Seek and accept support from the international community if needs cannot be sufficiently satisfied at the domestic level.*

*Establish procedures to identify and prioritize beneficiaries of basic shelter and adequate housing on the basis of need and particular vulnerability.*

*Remove legal obstacles as contained, e.g. in building and similar codes, for the construction of transitional shelters or the rebuilding of houses in return or relocation areas.*

*Create specific guarantees to protect IDPs against forced evictions where general guarantees are insufficient.*

*Recognize the property rights of IDPs to their abandoned homes, property and land, including the right to protection and restitution of such property.*

*Take basic measures to secure homes, lands and property left behind by IDPs against destruction, unlawful use or occupation and appropriation.*

*Develop facilitated procedures to restore or compensate IDPs’ rights in housing, land and property; where this is not possible, provide support to informal dispute resolution bodies to take into account human rights law in negotiating solutions to local property claims.*

**Key Pieces of Applicable Legislation**

International legal framework:

* Basic Principles and Guidelines on Development-Based Evictions and Displacement: Principle II (B)(13-16), Principle II (C)(23-26), Principle III (43), Principle V (52);
* CEDAW: art. 14 (2)(h);
* CERD: art. 5 (e)(iii);
* CRC: art. 27;
* CRPD: art. 15 (5), art. 28;
* ICCPR: art. 17;
* ICESCR: art. 11 (1);
* Pinheiro Principles: Sections II-V;
* UDHR: art. 25 (1);
* UN Guiding Principles on Internal Displacement: Principle 18 (2)(b), Principle 21, Principle 29.

Regional legal framework:

* AfCHPR: art. 14;
* Kampala Convention: art. 9 (2)(i), art. 11 (1) and 11(4), art. 12;
* Protocol to the AfCHPR on the Rights of Women in Africa: art. 6 (j), art. 7 (d), art. 16, art. 19 (c), art. 20;
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Does the national legal framework provide for the recognition of property rights of IDPs relating to abandoned housing, land and property and their protection against destruction, unlawful use or occupation and appropriation? Are there specific provisions on women’s right to land and property?

Are there mechanisms for the non-discriminatory restitution or compensation of IDP’s rights in housing, land and property, either through judicial or informal dispute settlement organs?

Does the national legal framework recognize the right of woman and men to a minimum level of tenure security, and the right to basic shelter and adequate housing to internally displaced people?

Is there a governmental agency tasked with the specific duty to address differentiated shelter and housing necessities of IDPs?

Are there inclusive mechanisms for the identification of beneficiaries with specific needs or vulnerabilities in order to prioritize the allocation of shelter and housing?

Are there specific discrimination factors towards women and girls that should be addressed?

Are there national provisions providing for the possibility of building transitional shelters or rebuilding of houses in return or relocation areas, or rather is this practice hampered by legal barriers contained in the Civil Code or Land Regulations?

Are legal guarantees against forced evictions broad enough to protect IDPs, especially women and girls, and vulnerable groups?

The whole analysis should be carried out by looking at whether men and women have equal access to property and land rights, and thus if women enjoy the same guarantees for the security of tenure and the right to own, use and inherit land and housing as men.

1. ***Basic Necessities of Life (Food, Water and Hygiene, Health)***

**General Overview**

In line with the international human rights framework and the UN Guiding Principles on internally displaced persons, the Kampala Convention reaffirms that States are under the obligation to ensure adequate humanitarian assistance to IDPs, which includes – among others – access to essential food and potable water, essential medical services and sanitation, education and other social services. The enjoyment of such basic necessities enables displaced people to see their right to an adequate standard of living fulfilled.

Despite being inordinately affected by displacement and its aftermath, the rights of women, including access to basic services – food, water, shelter, and health care – are often ignored[[1]](#footnote-0). The UN Guiding Principles make meaningful extensions of ESC rights to internally displaced women – and this is important to fully realize the special needs of women and girls during return and resettlement, and for their local integration.

*Food* is essential for a dignified life, and it is vital for survival, but also for the full development of physical and mental capabilities. The right to adequate food is not only related to a certain daily caloric intake and absorption of nutrients, but rather it is considered fulfilled when a person is able to physically and economically access food or the means of producing it at all times. In order to evaluate whether there is an adequate provision of food, one may look at the following elements: availability of sufficient quantity and quality of food; physical and economic accessibility of food for all; acceptability of food; and the accessibility of food without discriminations of any kind.

*Clean water* is essential for human survival as well: without access to potable water, the exercise of virtually all human rights is not attainable. During the displacement and resettlements phases, it may be difficult for internally displaced persons to access clean water for drinking and sanitation. In particular, water and adequate facilities may be physically inaccessible to the most vulnerable, such as women and disabled or elderly people, or poor water quality may be responsible for the transmission of diseases causing diarrhea, as well as cholera, typhoid, etc.

The right to *health* is a fundamental human right to attain a certain degree of health on the one hand, and to receive a minimum standard of health care on the other. Thus, it is a right with two core elements.

For what concerns the right to health care, it should be noted that displacement often implies a loss of access to medical facilities, services and medicines for a variety of reasons, such as: physical inaccessibility due to the remoteness of the area of relocation; discriminatory policies hindering access to medical treatments to displaced persons (i.e. specific documentation, residency requirements, or health insurance coverage); or even destruction, or complete absence of health infrastructures.

IDPs may also face adverse impacts on their right to live in healthy conditions. Inadequate shelter and housing may expose IDPs to issues such as overcrowding, risk of attacks or sexual assaults, or poor-quality water supply (that – in turn – may lead to the spread of water-borne diseases).

**Minimum Essential Elements**

*Recognize the right to adequate food for IDPs.*

*Designate a governmental authority to be responsible for the procurement, storage and distribution of food to IDPs, and allocation of sufficient funds for that purpose.*

*Seek and accept support from the international community if needs cannot be sufficiently satisfied at the domestic level.*

*Establish procedures to identify and prioritize beneficiaries of food and other nutritional aid on the basis of need and particular vulnerability.*

*Eliminate any obstacles hindering the domestic sourcing of food, such as subsidies or price regulations on domestic commodities that set their prices above global levels.*

*Recognize the right to potable water for IDPs.*

*Designate an agency at the local level responsible for the provision and maintenance of water and sanitation services for IDPs, whether or not in camps.*

*Seek and accept from the international community if needs cannot be sufficiently satisfied at the domestic level.*

*Establish procedures to identify and prioritize beneficiaries of water and sanitation services on the basis of need and particular vulnerability.*

*Recognize the right to health for IDPs.*

*Designate of an agency or organization responsible for providing essential health services to IDPs in cases where IDPs cannot easily access regular services available to the general population.*

*Seek and accept from the international community if needs cannot be sufficiently satisfied at the domestic level.*

*Establish procedures to identify and prioritize beneficiaries of health services on the basis of need and particular vulnerability.*

*Provide for the waiver of standard and universal requirements (e.g. specific documentation, residency requirements, health insurance coverage) that limit or exclude access of IDPs to health services, and for free access to such services on the basis of need and particular vulnerability.*

**Key Pieces of Applicable Legislation**

International legal framework:

* Basic Principles and Guidelines on Development-Based Evictions and Displacement: Principle II B (16);
* CEDAW: art. 12, art. 14 (2)(h);
* CRC: art. 24, art. 27;
* CRPD: art. 25, art. 28;
* ICESCR: art. 11, art. 12;
* UDHR: art. 25 (1);
* UN Guiding Principles on Internal Displacement: Principle 18, Principle 19.

Regional legal framework:

* AfCHPR: art. 16;
* AfCRWC: art. 14 (2)(b-d);
* Kampala Convention: art. 7 (5)(c), art. 9;
* Protocol to the AfCHPR on the Rights of Women in Africa: art. 14, art. 15, art. 22;
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Are there provisions that explicitly or implicitly recognize the right to adequate food, potable water and health for IDPs?

Is there a specific governmental body that manages the IDPs response in order to ensure the fulfilment of these basic necessities and the provision of essential health services as well?

Are there mechanisms to identify beneficiaries and classify them on the basis of their need and particular vulnerability in order to prioritize them in food distribution, water and sanitation provision and access to health services?

Is the domestic sourcing of food ensured, or are there economic barriers such as subsidies or price regulations may hamper the supply process?

Is the right to healthcare of IDPs hampered by specific requirements such as exhibition of personal documentation, residency requirement or health insurance coverage or specific exceptions are provided for by the applicable laws and regulations?

1. ***Other Economic, Social and Cultural Rights (Education and Employment)***

**General Overview**

The rights to education, employment and social security are pivotal to ensure one’s personal development and dignity, as well as the peaceful evolution of a society. Nevertheless, displacement often hampers their enjoyment, since it may cause severe disruption of education services for children and result in loss of employment and sources of livelihood. Women and girls are disproportionately impacted by displacement, and in particular they are often excluded from access to education and livelihoods.

Education services should be granted to IDP girls and boys in their place of displacement, either through enrolment in already-existing school places or the provision of temporary learning spaces. Nevertheless, the provision of equal, adequate and adapted education to displaced children faces many obstacles, such as overcrowded schools and tensions with the host community; sexual assaults for girls; children exploited in the illegal labor market; or again documentation requirements and school costs that IDPs cannot sustain.

In order to define an IDP response aimed at achieving inclusive durable solutions to displacement and ensuring that IDPs of different sex, age and abilities are self-sufficient, and do not rely solely on humanitarian aid, it is fundamental to ensure that the right to work and to participate in economic activities is upheld, and that access to social security programmes is ensured for women and men. However, displacement often results in IDPs excluded from access to markets or lacking the documentation necessary to ask for social security benefits or to prove their professional qualifications, and this may lead to labor exploitation in the informal economy, which may particularly harm vulnerable IDPs.

**Minimum Essential Elements**

*Recognize the right of IDPs to receive primary school education that is either free or provided on at least as favorable a basis as it would be for poor members of the host community.*

*Abolish administrative obstacles that may unreasonably and discriminatorily limit access to schools because they do not sufficiently take into account the specific problems faced by IDPs (i.e., requirements related to documentation, formal transfer from the previous school, or the pupil’s ability to provide books and school uniforms).*

*Establish a clear obligation on the part of the competent authority to provide education to IDPs located in areas inaccessible to existing schools.*

*Recognize the right to work and the right to social security for IDPs.*

*Take specific measures to protect IDPs against discrimination in the labor market and access to social security benefits.*

*Direct existing governmental agencies responsible for labor and social security related issues to specifically evaluate and take responsive action to unique problems faced by IDPs (e.g. through provisional work programs, access to livelihoods inputs, micro-credit and other support, skills transfers and vocational training, access to labor market and social security programs).*

*Provide for measures (such as micro-credit systems; vocational training; distribution of farming implements, seeds or animals) that help former IDPs to regain their livelihoods or engage in new economic activities at the locations where they find durable solutions.*

**Key Pieces of Applicable Legislation**

International legal framework:

* CEDAW: art. 10, art. 11 (1)(a);
* CERD: art. 5 (e)(i), art. 5 (e)(v);
* CRC: art. 28 (1), art. 32;
* CRPD: art. 24, art. 27, art. 28;
* ICCPR: art. 8 (3)(a);
* ICESCR: art. 6, art. 7, art. 13;
* UDHR: art. 23, art. 26;
* UN Guiding Principles on Internal Displacement: Principle 19 (Point 1), Principle 22 (Point 1b), Principle 23.

Regional legal framework:

* AfCHPR: art. 15, art. 41;
* AfCRWC: art. 11, art. 12;
* Kampala Convention: art. 3 (1)(k), art. 9 (1)(a);
* Protocol to the AfCHPR on the Rights of Women in Africa: art. 12, art. 13, art. 22, art. 23;
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Is the right to receive primary school education either for free or on terms at least as favourable as those applicable to other disadvantaged members of the host community foreseen for all citizens, including internally displaced children? Do boys and girls enjoy equal access to education?

Is IDPs access to school hindered by unjustifiable and discriminatory administrative barriers that do not take into account the peculiar dynamics of displacement?

Does the competent authority have a clear obligation to ensure that displaced girls and boys located in remote and inaccessible areas are granted their right to education?

Are internally displaced women and men recognized the right to work and to access social protection programmes, and targeted measures are adopted to avoid discrimination in the labor market?

Is action taken by governmental agencies to support internally displaced women and men to regain their livelihoods or engage in new economic activities with provisional work programmes, access to microcredit and other assistance, skills transfers and vocational trainings, and measures such as microcredit systems, vocational training, and distribution of farming implements, seeds or animals?

1. ***Disaster-Induced Displacement***

**General Overview**

Internal displacement is considered one of the biggest humanitarian challenges of our times, and its major causes are: conflict, generalized violence, human rights violations and disasters induced by natural hazards. Displacement has a coercive nature, and has devastating effects on people’s lives, stability, security and development. In particular, displacement has a disproportionate impact on women and girls’ lives.

Disaster displacement may be triggered by natural or man-made hazards. Although natural hazards – and above all weather-related hazards – cannot be prevented from occurring, inclusive early warning systems and effective emergency preparedness, mitigation, disaster response may significantly reduce their adverse effects, and therefore States have the primary responsibility to adopt sound disaster risk prevention and disaster risk management policies (that target both women and men’s needs).

**Minimum Essential Element**

*Adopt disaster policies that not only regulate response but also focus on disaster risks reduction and preparedness.*

**Key Pieces of Applicable Legislation**

International legal framework:

* UN Guiding Principles on Internal Displacement: Principle 6.

Regional legal framework:

* Kampala Convention: art. 4;
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Does the legal and policy framework adopted by [\_\_\_\_\_\_\_\_\_\_\_\_\_] on disaster risk reduction and management sufficiently regulate the response to natural and human-made disasters? Does it set out measures on disaster risk reduction and preparedness in order to prevent and address disaster-induced displacement? Does it set out measures to include women and girls and to promote their active participation and engagement?

1. ***Other regulatory issues***

IDPs require specific measures of assistance and protection corresponding to the needs and vulnerabilities resulting from their displacement. In many cases, these issues cannot be addressed through the regular legal framework, and specific legislation or policies must be enacted. They are covered in detail in the prior sections of the mapping. However, in other cases, states should be able to address the particular displacement-related threats and risks faced by IDPs through the non-discriminatory application of existing domestic law, provided that their statutory rules are in conformity with accepted international law standards. Thus, although many of the protection topics covered in the Guiding Principles require review and possible IDP-specific changes to existing legal and policy frameworks, presumptively some do not. A non-exhaustive list of issues that are important for the protection of IDPs but normally do not need IDP-specific legislation or are already covered by other chapters is set out in the following section (as covered in Chapter 16 of the Manual for Law and Policy-Makers):

***Life, Physical Security and Integrity; Confinement and Internment; Forced Recruitment***

**General Overview**

IDPs often face situations in which their life and safety are at risk, and they are very much exposed to physical attacks and threats against their life and their security throughout displacement, as well as while attempting to achieve durable solutions.

Yet, under International Human Rights Law and International Humanitarian Law, certain human rights cannot be suspended in any situation whatsoever, including during armed conflicts and disasters. Therefore, States have to the duty to respect, protect and fulfill the following rights at any time:

1. The right to life;
2. The prohibition of torture and other cruel, inhuman or degrading treatment which, in situations of internal displacement, may include the forced recruitment of IDP children into armed forces and/or armed groups, and sexual exploitation and other forms of gender-based violence. Indeed, it should be noted that internally displaced women are particularly vulnerable subjects to violence and abuses from Non-State Actors, that often have women as targets of their conflict strategy and use rape as a weapon of war[[2]](#footnote-1);
3. The prohibition of slavery, forced labor and human trafficking (including sexual slavery and trafficking with the purpose of sexual slavery);
4. The prohibition of arbitrary deprivation of liberty.

Nowadays, there is broad agreement that these core rights set forth by the UDHR also exist under Customary Law, meaning that no deviation nor derogation is permitted regardless of States’ adherence to relevant treaties and conventions.

It follows that – in this case – the IDP protection framework in relation to the right to life, physical security and integrity should not be provided for by IDP-specific legislation, but rather by a non-discriminatory application of the existing national law setting out protections applicable to all citizens (provided that it is compliant with the recognized international human rights standards).

**Minimum Essential Elements**

*Ensure that all forms of murder, physical assault, torture, rape and sexual assault, physical or mental abuse, abduction, kidnapping, enslavement, forced prostitution, forced labor, harassment, and coercion are proscribed as criminal acts without discrimination, in particular on the basis of the age, gender, or displaced status of the victim. If such acts amount to war crimes or crimes against humanity, they must be defined and prosecuted as such.*

*Ensure an absolute prohibition of any recruitment or involvement in hostilities of children under the age of 18.*

*Guarantee that no one is deprived of their liberty except on grounds and in accordance with procedures set out in law; that anyone arrested is informed at the time of their arrest of the reasons for their arrest and the charges against them; that anyone arrested or detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or release, with detention in custody pending trial or at any other stage of the judicial proceedings on an exceptional basis only; that anyone deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful; and that anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.*

*Guarantee that any instance of deprivation of liberty by any public official, regardless of the grounds, complies with the above standards and, in particular, that they are in accordance with law and subject to control by a court.*

*Ensure that no one is subjected to discriminatory arrest and detention, in particular on the basis of their displaced status.*

*Ensure that the above criminal acts are subject to effective investigation and prosecution and that the victims (including surviving relatives and dependents) are entitled to specific and adequate measures of compensation and rehabilitation.*

*Provide for the extension of legal deadlines to file complaints or formally initiate prosecutions in displacement settings in which armed conflict or the temporary breakdown of law-and-order hinder investigation and prosecution activities, as long as such conditions persist.*

**Key Pieces of Applicable Legislation**

International legal framework:

* CAT: art. 1;
* CEDAW: art. 6;
* CRC: art. 6, art. 35, art. 37 (a) and 37 (b);
* 1949 Geneva Conventions: common art. 3;
* ICCPR: art. 6, art. 7, art. 8, art. 9;
* UDHR: art. 3, art. 4, art. 5;
* UN Guiding Principles on Internal Displacement: Principle 10, Principle 11, Principle 12, Principle 13.

Regional legal framework:

* AfCHPR: art. 4, art. 5, art. 6;
* AfCRWC: art. 2, art. 5, art. 15, art. 16, art. 22;
* Kampala Convention: art. 3 (1)(d-f), art. 7, art. 9;
* Protocol to the AfCHPR on the Rights of Women in Africa: art. 3, art. 4, art. 5;
* *[Add relevant regional instruments applicable to the country of reference].*

National legislation:

* *[Add relevant pieces of legislation and/or policy acts in place in the country of reference].*

**Research Questions**

Are forms of murder, physical assault, torture, rape and sexual assault, physical or mental abuse, abduction, kidnapping, enslavement, forced prostitution, forced labor, harassment, and coercion proscribed as criminal acts without discrimination, in particular on the basis of the age, gender, or displaced status of the victim? If such acts amount to war crimes or crimes against humanity, are they defined and prosecuted as such?

Is the recruitment or involvement in hostilities of girls and boys under the age of 18 prohibited under national law?

Are there sufficient guarantees under the national legal framework that no one is deprived of their liberty except on grounds and in accordance with procedures set out in law; that anyone arrested is informed at the time of their arrest of the reasons for their arrest and the charges against them; that anyone arrested or detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or release, with detention in custody pending trial or at any other stage of the judicial proceedings on an exceptional basis only; and that anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation regardless of their sex, age and abilities? Are there sufficient guarantees that any instance of deprivation of liberty is therefore in accordance with the law and subject to control by a court?

Are there specific provisions aimed at ensuring that no one is subjected to discriminatory arrest and detention, in particular on the basis of their displaced status?

Are the above criminal acts subject to effective investigation and prosecution? Are specific, adequate and adapted measures of compensation and rehabilitation foreseen for the victims (including surviving relatives and dependents)?

**D. Annex I on the Applicable Framework Identified under each Thematic Chapter**

*[Fill in the table below by including the framework identified under each Thematic Chapter]*

|  |
| --- |
| **1. Definition of IDPs** |
| *International Framework* | *Regional Framework* | *National framework* |
| * UN Guiding Principles on Internal Displacement: Introduction (point 2)
 |  |  |
| **2. Protection against Discrimination** |
| *International Framework* | *Regional Framework* | *National framework* |
| * CEDAW: art. 1, art. 2;
* CRC: art. 2;
* CRPD: art. 2, art. 4;
* 1949 Geneva Conventions: common art. 3;
* ICCPR: art. 2, art. 26;
* ICERD: art. 1, art. 2, art. 6;
* ICESCR: art. 2;
* Pinheiro Principles: Principle 3;
* UDHR: art. 7;
* UN Guiding Principles on Internal Displacement: Principle 1 (1), Principle 29 (1).
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| **4. Prevention of Displacement and Prohibition against Arbitrary Displacement** |
| *International Framework* | *Regional Framework* | *National framework* |
| * Basic Principles and Guidelines on Development-Based Evictions and Displacement: Paragraph II (B);
* CRPD: art. 14, art. 18;
* 1949 Geneva Conventions: common art. 3;
* ICCPR: art. 12;
* ICERD: art. 5 (d)(ii) and (d)(v);
* ICESCR: art. 11;
* Optional Protocol to the CRC on the Involvement of Children in Armed Conflict: art. 1, art. 2, art. 3;
* Pinheiro Principles: Principle 2, Principle 5, Principle 9;
* UN Guiding Principles on Internal Displacement: Section 2.
 |  |  |
| **5. Data Collection relating to IDPs** |
| *International Framework* | *Regional Framework* | *National framework* |
| * Basic Principles and Guidelines on Development-Based Evictions and Displacement: Paragraph II (B)(33).
 |  |  |
| **6. National and Local Structures for Governance for IDP Response, Including Coordination Mechanisms** |
| *International Framework* | *Regional Framework* | *National framework* |
| * Basic Principles and Guidelines on Development-Based Evictions and Displacement: Principle V (52);
* 1949 Geneva Convention IV: common art. 3 (2), art. 10, art. 59;
* Paris Principles: Principle 1, Principle 2, Principle 3;
* UN Guiding Principles on Internal Displacement: Principle 3, Principle 24 (2), Principle 25, Principle 30.
 |  |  |
| **7. Allocation of Financial and Human Resources, Including Training and Capacity Building** |
| *International Framework* | *Regional Framework* | *National framework* |
| * Basic Principles and Guidelines on Development-Based Evictions and Displacement: Principle II (D)(34);
* Pinheiro Principles: Principle 10 (4), Principle 12;
* UN Guiding Principles on Internal Displacement: Principle 3, Principle 28.
 |  |  |
| **8. Recognition, Issuance and Replacement of Documents** |
| *International Framework* | *Regional Framework* | *National framework* |
| * CEDAW: art. 9;
* CRC: art. 7;
* CRPD: art. 18 (2);
* ICCPR: art. 16, art. 24;
* UDHR: art. 15;
* UN Guiding Principles on Internal Displacement: Principle 20.
 |  |  |
| **9. Freedom of Movement** |
| *International Framework* | *Regional Framework* | *National framework* |
| * CEDAW: art. 15 (4);
* CRPD: art. 18;
* 1949 Geneva Convention IV: art. 49;
* ICCPR: art. 12;
* ICERD: art. 5 (d)(i);
* Pinheiro Principles: Principle 9, Principle 10;
* UDHR: art. 13;
* UN Guiding Principles on Internal Displacement: Principles 6 (3), Principle 12, Principle 14, Principle 15, Principle 28 (1).
 |  |  |
| **10. Participation of IDPs and Electoral Rights** |
| *International Framework* | *Regional Framework* | *National framework* |
| * CEDAW: art. 7;
* CERD: art. 5 (c);
* CRC: art. 12;
* CRPD: art. 29;
* ICCPR: art. 25;
* UDHR: art. 21;
* UN Guiding Principles on Internal Displacement: Principle 22, Principle 29.
 |  |  |
| **11. Right to Family Life** |
| *International Framework* | *Regional Framework* | *National framework* |
| * Basic Principles and Guidelines on Development-Based Evictions and Displacement: Principle II (B)(13), Principle V (52);
* CRC: art. 9, art. 16;
* CRPD: art. 22, art. 23;
* ICCPR: art. 17, art. 23;
* ICESCR: art. 10, art. 11;
* UDHR: art. 12;
* UN Guiding Principles on Internal Displacement: Principle 16, Principle 17.
 |  |  |
| **12. Housing, Land and Property** |
| *International Framework* | *Regional Framework* | *National framework* |
| * Basic Principles and Guidelines on Development-Based Evictions and Displacement: Principle II (B)(13-16), Principle II (C)(23-26), Principle III (43), Principle V (52);
* CEDAW: art. 14 (2)(h);
* CERD: art. 5 (e)(iii);
* CRC: art. 27;
* CRPD: art. 15 (5), art. 28;
* ICCPR: art. 17;
* ICESCR: art. 11 (1);
* Pinheiro Principles: Sections II-V;
* UDHR: art. 25 (1);
* UN Guiding Principles on Internal Displacement: Principle 18 (2)(b), Principle 21, Principle 29.
 |  |  |
| **13. Basic Necessities of Life (Food, Water and Hygiene, Health)** |
| *International Framework* | *Regional Framework* | *National framework* |
| * Basic Principles and Guidelines on Development-Based Evictions and Displacement: Principle II B (16);
* CEDAW: art. 12, art. 14 (2)(h);
* CRC: art. 24, art. 27;
* CRPD: art. 25, art. 28;
* ICESCR: art. 11, art. 12;
* UDHR: art. 25 (1);
* UN Guiding Principles on Internal Displacement: Principle 18, Principle 19.
 |  |  |
| **14. Other Economic, Social and Cultural Rights (Education and Employment)** |
| *International Framework* | *Regional Framework* | *National framework* |
| * CEDAW: art. 10, art. 11 (1)(a);
* CERD: art. 5 (e)(i), art. 5 (e)(v);
* CRC: art. 28 (1), art. 32;
* CRPD: art. 24, art. 27, art. 28;
* ICCPR: art. 8 (3)(a);
* ICESCR: art. 6, art. 7, art. 13;
* UDHR: art. 23, art. 26;
* UN Guiding Principles on Internal Displacement: Principle 19 (Point 1), Principle 22 (Point 1b), Principle 23.
 |  |  |
| **15. Disaster-Induced Displacement** |
| *International Framework* | *Regional Framework* | *National framework* |
| * UN Guiding Principles on Internal Displacement: Principle 6.
 |  |  |

1. Lauren Groth, *Engendering Protection: an Analysis of the 2009 Kampala Convention and its Provisions for Internally Displaced Women*, p. 223. [↑](#footnote-ref-0)
2. Lauren Groth, *Engendering Protection: an Analysis of the 2009 Kampala Convention and its Provisions for Internally Displaced Women*, International Journal of Refugee Law Vol. 23 No. 2, OUP, p. 245. [↑](#footnote-ref-1)