

CAPACITY BUILDING FOR LAW AND POLICY-MAKING ON INTERNAL DISPLACEMENT

SESSION 2: A HUMAN RIGHTS-BASED APPROACH TO DISPLACEMENT

TIME

60 minutes

OVERVIEW

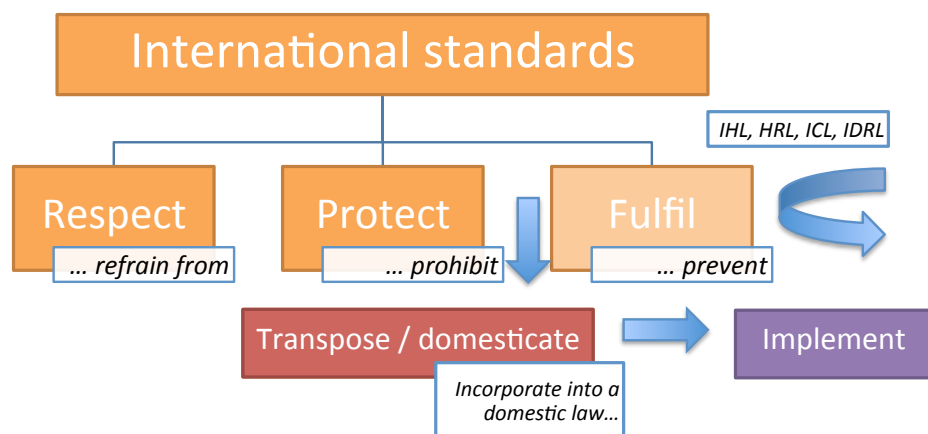
This session reviews the main sources of law applicable to internal displacement. Using a human rights-based approach to address the phenomenon is key to the development of laws and policies that aim to ensure that IDP's rights are respected, protected and fulfilled.

Provisions in various international legal instruments are relevant. The Guiding Principles restate international human rights law (IHRL) and IHL norms, reaffirming their validity and illustrating their relevance to IDPs. In recent times regional and sub-regional frameworks, first and foremost the Kampala Convention, have reinforced the protection regime for IDPs and set out clearer obligations for states and others involved in responding to displacement.

First introduced into the UN in 1998, the Guiding Principles have become the basis for laws and policies in many countries. They are not legally binding, but national authorities have used different methods to translate their provisions into their national norms. Laws, policies, plans, decrees, frameworks and protocols to regulate some or all aspects of displacement have been adopted since 1998.

The Kampala Convention is the world's first binding instrument on internal displacement. It was adopted by the African Union (AU) in October 2009 and entered into force in December 2012. To date 24 of the 54 AU member states have ratified it, but many are still to domesticate it and lay the ground for its implementation.

There are only two ways in which states can comply with their legal obligations under regional or international treaties - by observing or respecting national laws that are in keeping with them, or by making them part of their national legal or policy frameworks, that is, by domesticating them.



OBJECTIVES

By the end of the session participants should be able to:

- Describe some of the instruments relevant to IDPs' protection and assistance
- Determine legal obligations to IDPs that derive from international instruments
- Recognise IDPs' entitlements during all phases of displacement

KEY MESSAGES

- International legal standards on internal displacement are benchmarks for states' responses to IDPs' protection and assistance needs
- IHL, IHR, international disaster response law (IDRL) and international criminal law (ICL) provide a framework for the IDPs' protection and the assistance
- States are responsible for compliance with international legal standards
- IHL also establishes obligations for non-state armed groups
- A human rights-based approach should be used in the development of a national instrument on displacement

DOCUMENTATION

- Guiding Principles on Internal Displacement, 1998
- Kampala Convention, 2009
- Geneva Conventions and additional protocols
- Main human rights instruments: the Universal Declaration of

HANDOUTS:

Human Rights (UNDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and others

- Hyogo framework for action
- 1998 Rome Statute
- ICRC's 2010 advisory on IDPs and IHL
- Rights table