

GLOBAL REPORT ON LAW AND POLICY ON INTERNAL DISPLACEMENT:

IMPLEMENTING NATIONAL RESPONSIBILITY



Acknowledgments

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Contents

List of Acronyms	4
Forewords	5
- UN High Commissioner for Refugees	5
- UN Special Rapporteur on the Human Rights of Internally Displaced Persons	6
Introduction	7
Why a Focus on Law and Policy on Internal Displacement?	8
The Global Protection Cluster’s Task Team on Law and Policy	11
Report Methodology	12
Section 1: Global Trends	13
IDP-specific Instruments	16
Trends in IDP-specific Instruments	19
- By Cause of Displacement	20
- By Phase of Displacement	22
- By Population Group	26
Governance Structures for Internal Displacement	29
- Issue in focus: The role of local governments	31
IDP-inclusive Instruments	36
- Issue in focus: Internal displacement and statelessness	40
Section 2: Regional Trends	41
Africa	42
- Country in focus: Mali	60
- Country in focus: Somalia	63
- Country in focus: Mozambique	66
Americas	69
- Country in focus: Mexico	79
Europe	82
- Country in focus: Ukraine	90
Middle East	93
- Country in focus: Iraq	100
Asia	103
- Country in focus: Philippines	109
Pacific	112
- Country in focus: Fiji	115

Introduction	118
Disaster Displacement in Instruments Specific to Internal Displacement	121
Internal Displacement in Instruments Related to Disasters and Climate Change	123
- <i>Issue in focus: Planned relocations in the context of disasters and climate change</i>	125

List of Acronyms

AU	African Union	JIPS	Joint IDP Profiling Service
CCA	Climate Change Adaptation	LAS	League of Arab States
CoE	Council of Europe	MIRPS	Comprehensive Regional Protection and Solutions Framework
CRRF	Comprehensive Refugee Response Framework	NAP	National Adaptation Plans
DRR	Disaster Risk Reduction	NDP	National Development Plans
ECOWAS	Economic Community of West African States	NRC	Norwegian Refugee Council
EGRIS	Expert Group on Refugee, IDP and Statelessness	OAS	Organization of American States
GPC	Global Protection Cluster	OCHA	Office for the Coordination of Humanitarian Affairs
IACHR	Inter-American Commission on Human Rights	OHCHR	Office of the High Commissioner for Human Rights
IASC	Inter-Agency Standing Committee	OIC	Organization of Islamic Cooperation
ICGLR	International Conference on the Great Lakes Region	OSCE	Organization for Security and Cooperation in Europe
ICRC	International Committee of the Red Cross	PDD	Platform on Disaster Displacement
IDMC	Internal Displacement Monitoring Centre	SADC	Southern African Development Community
IDP	Internally Displaced Person	SIDS	Small Island Developing States
IFRC	International Federation of Red Cross and Red Crescent Societies	TTLP	Task Team on Law and Policy
IOM	International Organization for Migration	UN	United Nations
IGAD	Intergovernmental authority on Development	UNDP	United Nations Development Program
		UNFCCC	UN Framework Convention on Climate Change
		UNHCR	United Nations High Commissioner for Refugees

Foreword

At the end of 2021, some 59.1 million people were internally displaced due to armed conflict, generalized violence, human rights violations and disasters, according to the Internal Displacement Monitoring Centre. Displacement is no doubt one of the great contemporary challenges the world is facing, as the numbers have climbed every year of the last decade, and forced displacement grows increasingly protracted.

UNHCR exists to protect and assist everyone who has been affected by forced displacement, including internally displaced people. In collaboration with our humanitarian, human rights, peacebuilding and development partners, we work closely with countries affected by internal displacement to assist them in the exercise of their primary responsibility towards IDPs. The development and implementation of effective legal, policy and institutional responses to protect their rights, and find durable solutions for them, is an essential part of that primary responsibility - and therefore an area of special concern to UNHCR.

While constitutions and national legislation are applicable in situations of internal displacement, and IDPs are entitled to protection under these laws, legislation that is general in scope often fails to address their specific needs and vulnerabilities. Such legislation is not drafted in times of humanitarian crisis with displacement in mind; in some cases, existing laws may even have detrimental effects on IDPs' enjoyment of their rights. Adequate national frameworks on internal displacement in line with international standards are also vital to designate clear roles and responsibilities to relevant authorities at the central and local level, allocate the necessary financial and human resources to them and identify priorities for the IDP response. As a result, they are instrumental in strengthening governments' collaboration with their humanitarian and development partners.

I am therefore grateful for this publication, which for the first time takes stock of the encouraging progress that states have made in the area of law and policy on internal displacement worldwide, with the support of their national, regional and international partners. The chapters of this report present global and regional trends, highlighting important lessons and good practices that have been developed over the past three decades, since the adoption of the first national legal framework relevant for addressing internal displacement. They also identify both obstacles and opportunities to concretely advance protection and solutions for IDPs in different contexts.

The report acknowledges that national instruments on internal displacement are not a silver bullet for resolving internal displacement, and their adoption is but an important first step. Ultimately, what matters is not just their implementation, which remains a challenge in many contexts, but a concerted effort to prevent and resolve conflict, as well as a relentless pursuit of solutions for the displaced. As we are grappling with these issues every day, we at UNHCR remain strongly committed to continuing our work with governments and all partners to ensure that existing frameworks and tools translate effectively into better protection to people on the ground. In particular, I hope that this publication will be a valuable tool for policymakers and practitioners in the field and assist them in working together to achieve this fundamental objective. We all have a responsibility to leave no-one behind.



Filippo Grandi

UN High Commissioner for Refugees

Foreword

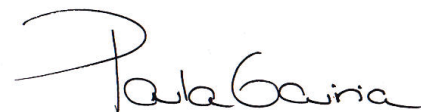
The central importance of the primary responsibility of the State underpinning national and international responses to internal displacement has been emphasized since my predecessor Francis M. Deng developed the Guiding Principles on Internal Displacement almost 25 years ago. The 2021 report of the UN Secretary-General's High-Level Panel on Internal Displacement reaffirms this and emphasizes how authorities across ministries and at all levels play important roles in preventing arbitrary displacement, mitigating the effects of displacement, providing protection and to creating conditions for internally displaced persons to find durable solutions.

Key benchmarks for government leadership and action include legislative and policy measures, which are in line with the Guiding Principles. Reflective of international human rights and humanitarian law norms, these Principles provide guidance for comprehensively addressing inter-related causes of internal displacement and promote consideration of the needs and rights of displacement-affected people who may not always be counted or visible. These include people at risk of displacement, IDPs in urban and peri-urban centres, host communities, as well as returnees who have been unable to regain their homes and reintegrate.

This global report documents three decades of experience in domestic law and policymaking, analyses key benchmarks of national responsibility, trends and learning related to developing national instruments. It provides insights on substantive and procedural issues that governments across regions have tackled, including African Union Member States that have developed domestic legislation as parties to the *Kampala Convention for the protection and assistance of internally displaced persons in Africa*.

This report is not just for legal specialists! It is a comprehensive resource for government policymakers, IDP advocates, and international partners involved in design and implementation of processes to develop law and policy. They may take inspiration from processes that are inclusive, evidence-based and draw on the experience of key stakeholders and affected populations. Solid multi-stakeholder engagement can ensure that laws and policies clarify responsibilities at all levels of government and frame how national and international responses are to be coordinated. It can also set the frame for participation of IDPs and host communities in the decisions that affect their lives, as well as for collaboration with civil society and other non-governmental actors contributing to responses.

I commend UNHCR and the members of the Global Protection Cluster Task Team on Law and Policy on their tremendous commitment to monitoring, documenting, disseminating and contributing to the development of standards and good practices related to law and policy on internal displacement, noting that such a publication is possible thanks to engagement of national and regional stakeholders in such processes. I encourage all these stakeholders to use the Global Report in their collaboration to continue developing solid legal and institutional frameworks, and to effectively implement protective measures for IDPs in practice.



Paula Gaviria Betancur

UN Special Rapporteur on the Human Rights of Internally Displaced Persons

INTRODUCTION



Why a Focus on Law and Policy on Internal Displacement?

Normative frameworks that protect the rights of internally displaced persons are critically important when it comes to a government's response to internal displacement, from prevention through to protection, assistance and durable solutions. Law and policymaking is a fundamental expression of States' national sovereignty; adopting and implementing adequate legal and policy frameworks are therefore paramount for a government to fulfil its primary national responsibility to provide for the needs of internally displaced persons¹ and guarantee the full enjoyment of their rights, in line with the country's international and regional obligations.²

While constitutions and national legislation are applicable in situations of internal displacement, and IDPs are entitled to protection under these laws, **legislation that is general in scope often fails to address their specific needs and vulnerabilities.** Such legislation is not drafted in times of humanitarian crisis with displacement in mind; in some cases, existing laws may even have detrimental effects on IDPs' enjoyment of their rights.³ Legislation **often also fails to allocate clear roles and responsibilities to competent authorities at the national and local level, or to provide a sound basis for making adequate resources available to protect and assist IDPs.**⁴ In

the absence of an overall framework addressing the issue, responses to internal displacement tend to be executed in an *ad hoc* manner through emergency interventions or social welfare programmes. These may be inadequate to comprehensively address the needs of internally displaced persons in the long term, which can contribute to making displacement situations protracted.

Normative frameworks on internal displacement can therefore be a precondition for concrete operational achievements; they facilitate domestic and international cooperation and coordination, and boost the reliability and credibility of government responses to IDPs.⁵ These are some of the reasons why **the development, adoption and implementation of national IDP-specific instruments have been a recurrent recommendation** over time of many global and regional expert individuals and bodies dealing with internal displacement - with the advocacy role of the UN mandate on the human rights of IDPs particularly standing out.⁶

There is no one-size-fits-all. As this report shows, States' legal and policy responses to internal displacement can be - and have been - articulated in different ways, reflecting the context of the country

1 - Brookings-Bern, *Addressing Internal Displacement: A framework for National Responsibility*, 2005.

2 - IDPs are protected by international human rights law and in times of armed conflict by international humanitarian law. The extent of a state's obligations depends on the international conventions to which it is party. States are also bound by rules of customary international law, and may have obligations under regional agreements. Several regional bodies, including the Organisation of American States and the Council of Europe, urge their member states to develop national policies on internal displacement. In Africa, the 2006 Great Lakes "IDP Protocol" and the 2009 African Union "Kampala Convention" make it mandatory for member states to establish adequate national legal frameworks.

3 - A common example concerns legislation on documentation that may, for example, require people to apply for identity documents in their places of origin. This could be an insurmountable obstacle for people who cannot return to their homes or places of habitual residence without putting their safety at risk.

4 - Brookings-LSE, IDMC, NRC, *National instruments on Internal Displacement: A guide to their development*, 2013, p. 9.

5 - *Ibid*, p. 10.

6 - See most thematic and country-specific reports by the Special Rapporteur (previously Representative of the UN Secretary-General) on the human rights of IDPs, as well as country reports of the African and Interamerican Special Rapporteurs on IDPs; the report of the UNSG for the 2016 World Humanitarian Summit, *One Humanity: Shared Responsibility* (p. 23); the report of the UNSG's High-Level Panel on Internal Displacement *Shining a Light on Internal Displacement: A Vision for the Future* and its ensuing *Action Agenda* (p. 8).

concerned, the particularities of each displacement situation and the political opportunities at the time of development. While **many states have developed a stand-alone displacement-specific instrument**⁷ for the reasons mentioned above, **others have addressed displacement issues through the amendment or alteration of existing laws and sectoral regulations.**

A combination of the two approaches is not only possible but often necessary to avoid contradictions between different legal instruments, as well as to ensure that IDPs can exercise their rights in practice. For example, while IDPs' right to vote is reaffirmed in most IDP laws, many countries had to reform their electoral laws in order to ensure IDPs' actual participation in national and local elections.⁸ Several similar examples are in the chapters that follow.

Good practice: legal and policy reviews

It should be highlighted that to tailor the most adequate legal and policy responses to the displacement situation in a country, **a comprehensive analysis of laws and policies relating to the protection of IDPs can provide added value and may even be necessary.**⁹ Such an exercise can help to:¹⁰

- 1 Verify consistency of national legislation in identified key thematic areas with the international (and regional as relevant) legal standards on IDP protection, with the aim of highlighting eventual gaps or unintended obstacles to the full enjoyment of IDPs' rights;
- 2 Address potential incoherence between different pieces of national legislation, especially in areas where legal developments are already being undertaken, to avoid conflicts with more specific standards relating to internal displacement. If a national IDP-specific instrument exists or is being created, it is necessary to establish whether the framework of existing laws and policies would facilitate or hamper its implementation;
- 3 Identify opportunities in existing laws, policies and programmes to strengthen IDPs' access to rights and services as citizens or habitual residents of a country.

7 - At a minimum, IDP-specific instruments should: include a clear IDP definition of IDPs; establish their rights on the one hand and duty-bearers' obligations on the other; prohibit arbitrary displacement; establish structures of governance and coordination mechanisms for the response to internal displacement, and allocate adequate resources for it. For more information on the minimum essential elements of state regulation on internal displacement, see: Brookings-Bern, *Protecting Internally Displaced Persons: a manual for law and policy makers*, 2008.

8 - For example, Serbia and Bosnia-Herzegovina modified their respective election legislation to allow IDPs to register in the place where they were registered with their IDP status. *Amendments*, after intensive local, regional and international advocacy, to the the Election Code of Georgia in 2003 also gives to the election administration the power to structure its voter list to include the IDPs in their current address, based on the list provided by the Ministry of Internally Displaced Persons from the Occupied Territories (Articles 14 and 31). In Ukraine, the Parliament adopted a new Electoral Code and amended the *Law on the State of Register of Voters* in December 2019 to include provisions to ensure IDPs could vote. In addition, the Ukrainian Central Election Commission also adopted in May 2020 *Resolution No. 88 on the procedure of considering a voter's appeal on the change of the electoral process*, which has ultimately enabled the IDPs to exercise their right to vote in the 2020 local elections. The *Ethiopian Electoral, Political Parties Registration, and Election's code of Conduct Proclamation (No. 1162/2019)* also attributed to the National Electoral Board of Ethiopia the responsibility to enfranchise "those living far from their constituency" (including IDPs). The law provides for the establishment of special polling stations, the capacity to allow IDPs to register and vote earlier than other citizens and to decide more broadly on special procedures to enfranchise IDPs under certain conditions (Article 17).

9 - The methodology is based on the Brookings-Bern, *Protecting Internally Displaced Persons: a manual for law and policy makers*, 2008, and its comprehensive review of national legislation regarding the rights of IDPs in the Central African Republic, the first "legal audit" conducted as required by State Signatories to the Kampala Convention. From there, the TTLP also created a *template concept note* and *template analysis methodology* that can easily be adapted by relevant stakeholders to different contexts.

10 - Brookings-LSE, IDMC, NRC, *National instruments on Internal Displacement: A guide to their development*, 2013, p. 31.

Good practice: legal and policy reviews (continued)

A well-established methodology exists to facilitate such analysis, which was conducted to support legislative and policy reforms in countries such as the Central Africa Republic,¹¹ Kenya,¹² Mali,¹³ Mexico,¹⁴ Ukraine¹⁵ and Zimbabwe.¹⁶ At the sub-regional level, comprehensive legal reviews have been undertaken of the compliance of national legislation in Armenia, Azerbaijan and Georgia with the UN Guiding Principles on Internal Displacement.¹⁷

11 - Erin Mooney, *Examen du cadre normatif de la République Centrafricaine relatif à la protection des personnes déplacées à l'intérieur de leur propre pays*, Brookings, 2011.

12 - IDMC, *A review of the normative framework in Kenya relating to the protection of IDPs*, 2015.

13 - GPC, *Examen du cadre normatif et institutionnel Malien*, 2015.

14 - Government of Mexico and UNHCR, *Análisis del marco normativo y de política pública en México a nivel federal para la atención integral y protección de las personas en situación de desplazamiento forzado interno*, 2022.

15 - Council of Europe, *Enhancing the national legal framework in Ukraine for protecting the human rights of internally displaced persons*, 2016.

16 - IDMC, *A review of the normative framework in Zimbabwe relating to the protection of IDPs*, 2014.

17 - Cohen, Kalin, Mooney (eds.), *The Guiding Principles on Internal Displacement and the Laws of the South Caucasus: Armenia, Azerbaijan, and Georgia*, American Society of International Law, OSCE and the Brookings Institution, 2003.



The Global Protection Cluster's Task Team on Law and Policy

Law and policy-making on internal displacement is an emerging area of states' regulation and the need to support it has been reiterated in different arenas, as the appropriate technical expertise is often not present at the local level. Since its establishment, the UN Mandate on the human rights of IDPs has played an essential role both in terms of advocacy and technical assistance in this area. In 2015, the Global Protection Cluster (GPC) established a Task Team on Law and Policy (TTLP) to address this gap and coordinate multi-stakeholder efforts to advocate for, promote and support states' efforts in developing domestic and regional normative frameworks on the protection and assistance of IDPs in line with the *Guiding Principles on Internal Displacement* ("Guiding Principles") and other relevant regional and international frameworks.¹⁸

UNHCR has been leading the TTLP since 2015. Its membership includes humanitarian, human rights and development UN agencies and NGOs, research and academic institutions, independent experts and field Protection Cluster (co-)coordinators. The TTLP takes a series of actions to build local capacity for the development and implementation of IDP-specific frameworks; it regularly provides technical

advice and support to authorities and others engaged in such work, and serves as a global forum for expertise on legislative and policy processes on internal displacement, including by promoting and conducting research¹⁹ and supporting peer exchanges in this area.

The Task Team recently redesigned a training package on IDP law and policy-making to support multi-stakeholder initiatives at the national and regional levels. The package highlights the need to establish effective frameworks that prevent and address internal displacement crises. To encourage the harmonious development of such instruments, it also recommends a consultative approach involving a range of institutions and organizations, IDPs themselves and other affected communities. In 2022 only, UNHCR on behalf of the Task Team provided on-site technical support to support IDP law-making processes in Burkina Faso, Ethiopia, Honduras, Mexico, Nigeria and South Sudan. In 2021-22 the training package was also converted into an e-learning course "Introduction to Law and Policy on Internal Displacement",²⁰ available online to all stakeholders.

11 - Erin Mooney, *Examen du cadre normatif de la République Centrafricaine relatif à la protection des personnes déplacées à l'intérieur de leur propre pays*, Brookings, 2011.

12 - IDMC, *A review of the normative framework in Kenya relating to the protection of IDPs*, 2015.

13 - GPC, *Examen du cadre normatif et institutionnel Malien*, 2015.

14 - Government of Mexico and UNHCR, *Análisis del marco normativo y de política pública en México a nivel federal para la atención integral y protección de las personas en situación de desplazamiento forzado interno*, 2022.

15 - Council of Europe, *Enhancing the national legal framework in Ukraine for protecting the human rights of internally displaced persons*, 2016.

16 - IDMC, *A review of the normative framework in Zimbabwe relating to the protection of IDPs*, 2014.

17 - Cohen, Kalin, Mooney (eds.), *The Guiding Principles on Internal Displacement and the Laws of the South Caucasus: Armenia, Azerbaijan, and Georgia*, American Society of International Law, OSCE and the Brookings Institution, 2003.

18 - See the Task Team's *Terms of Reference* and *2021-2024 Strategy*.

19 - Recent examples include: UNHCR-TTLP, *Making Arbitrary Displacement a Crime: Law and Practice*, 2022; Weerasinghe, *Bridging the Divide in Approaches to Conflict and Disaster Displacement: Norms, Institutions and Coordination in Afghanistan, Colombia, the Niger, the Philippines and Somalia*, 2021, UNHCR-IOM.

20 - All this was possible thanks to the continuing support of the Bureau of Population, Refugees and Migration of the US Department of State received by UNHCR on behalf of the Global Protection Cluster.

To increase global knowledge of laws and policies on internal displacement and describe their salient features, the TTLP also mapped their development in more than 70 countries and created a database of such instruments - the **Global Database on Laws and Policies on Internal Displacement** (“*Global Database*”), which is regularly updated by UNHCR.

This is a repository of national and sub-national frameworks, including laws, policies, strategies, action plans, implementing instruments such as decrees and regulations, which are broadly categorized in two groups:

- a **“IDP-specific” instruments**, i.e. those specifically dedicated to protection and assistance of internally displaced persons;
- and
- b **“IDP-inclusive” instruments**, i.e. relevant to internal displacement (e.g. frameworks on documentation, land, development, peace, disasters and climate change) and including provisions that explicitly address it or refer to the situation of IDPs.

Report Methodology

This report is based on an in-depth analysis of the Global Database on Laws and Policies on Internal Displacement which is updated on an ongoing basis. It is also based on a desk review of existing literature and key informant interviews with experts on the subject. At the end of 2021, UNHCR also conducted a survey²¹ with Member States’ Permanent Missions to the UN in Geneva, as well as with all Protection Cluster coordinators and UNHCR IDP operations. The information received through the survey was incorporated in the text. The desk review was followed by cross-checking, cleaning and updating the information gathered, also drawing on the knowledge and expertise of different TTLP members including ICRC, IOM, NRC and OHCHR.

This report uses the concepts and definitions in line with the methodology of the Global Database. The analysis presented in this report is based on data updated as of 23 October 2022. The Global Database aims at being as exhaustive as possible in the collection of national laws, policies, strategies and action plans specifically addressing IDPs. The Global Database also includes a non-exhaustive list of implementing instruments dedicated to internal displacement. Despite collective efforts to ensure the database is comprehensive, we recognise that possible limitations and data gaps might exist (i.e. there may be some relevant legal and policy documents that are missing from the database). We expect this limitation mostly applies to the category of IDP-inclusive instruments, given its broad nature, and that of IDP-specific instruments adopted at the sub-national level.

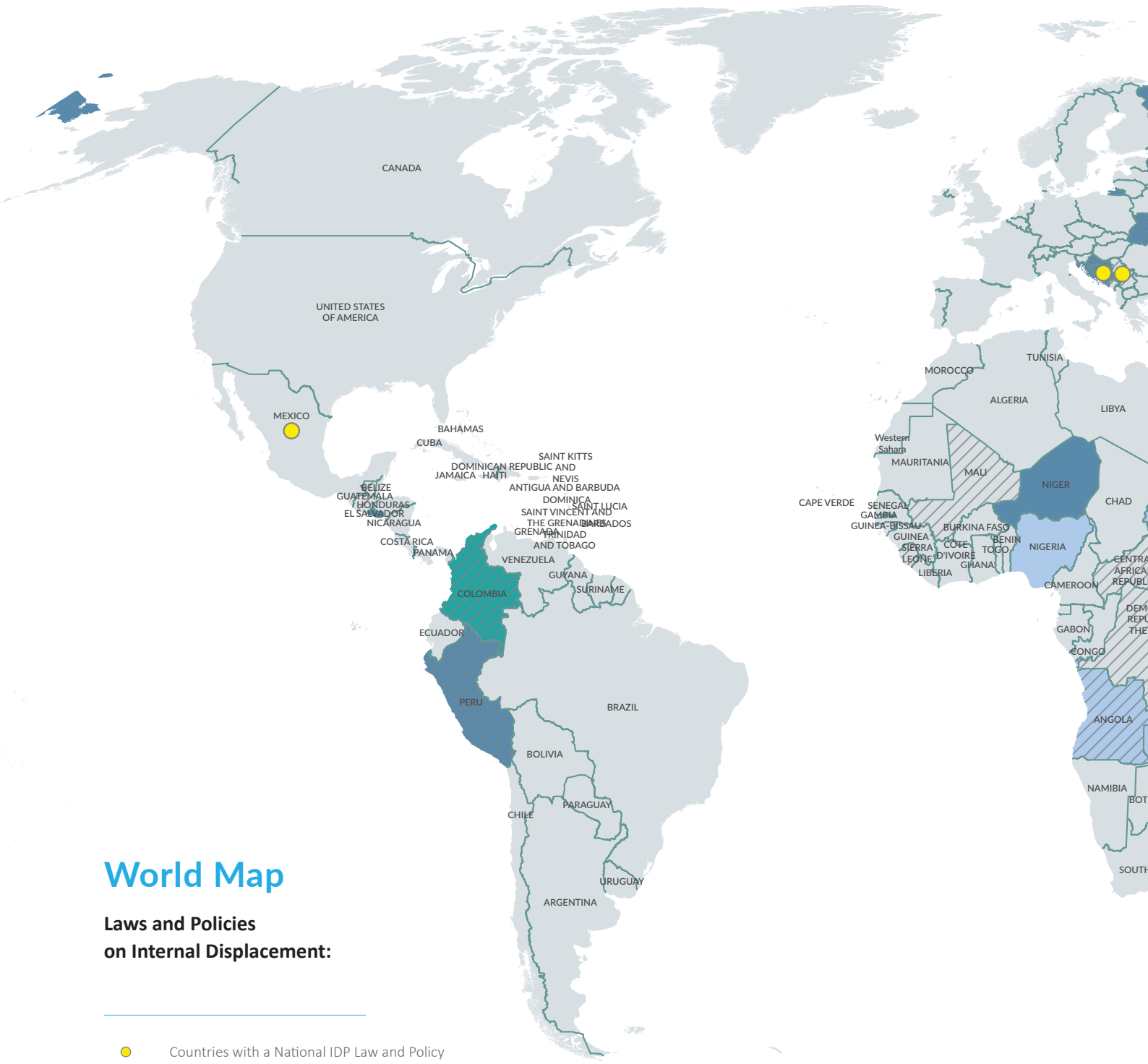
21 - Available upon request to the TTLP Chair.

SECTION 1:

GLOBAL TRENDS



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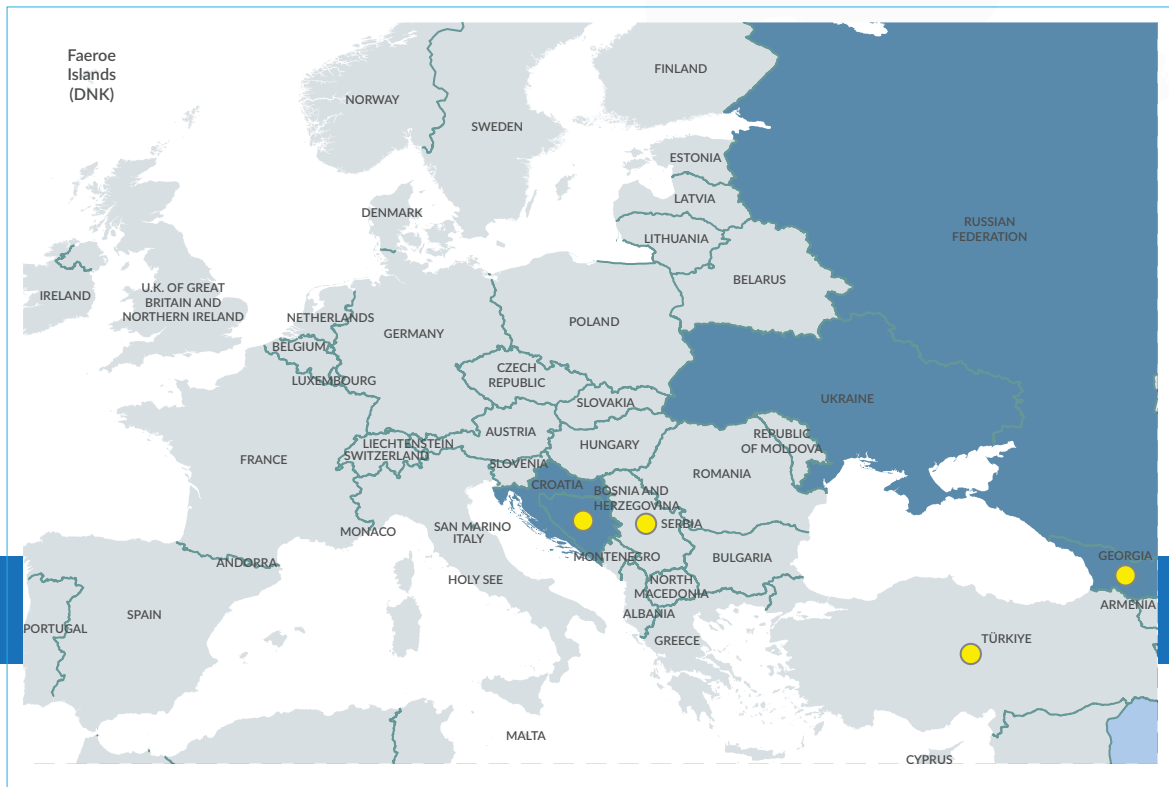
World Map

Laws and Policies on Internal Displacement:

- Countries with a National IDP Law and Policy
- Countries with a National IDP Law
- Countries with a National IDP Policy
- Countries with a National IDP-specific Instrument (e.g. Strategy or Action Plan)
- Countries with a Sub-national IDP-specific Instrument

Author: UNHCR- HQ Copenhagen
 Source: UNCS, UNHCR-GPC Database on Law and Policy on Internal Displacement (Date 26 September 2022)

The boundaries and names shown and the destinations used on this map do not imply official endorsement or acceptance by the United Nations



IDP-specific Instruments

IDP-specific Instruments²² in Numbers (as of October 2022):



Countries have been developing and adopting legal and policy instruments to address the plight of internally displaced persons in line with their primary national responsibility since the early 1990s. At the time of the publication of the Guiding Principles in 1998, 9 instruments addressing forced displacement (internal and across borders) had already been adopted, and their number has increased substantially since then. The Guiding Principles are a restatement of international norms, notably those most relevant to IDPs under international human rights and humanitarian law. The sustained dialogue and advocacy with States that began with

the first Representative of the Secretary General who developed these Principles, Francis Deng, has always emphasized law and policy-making as a core component of State's primary responsibility to protect and assist IDPs, and to comprehensively address and resolve internal displacement. Over more than two decades, the leadership of states and regional organizations, as well as coordinated multi-stakeholder engagement on law and policy-making, has grown and bore fruit across regions and globally.

Overall, by October 2022 a total of 46 countries worldwide had adopted at least an IDP law, policy

²² - This number includes all IDP-specific laws, policies and strategies/action plans but excludes the related implementing instruments (although they also feature in the Global Database and are classified as IDP-specific instruments).

or strategy/action plan on internal displacement. 29 laws on internal displacement (also referred to as “IDP-specific” or “IDP” laws in this report) **had been adopted across 14 countries.** The most recent national IDP laws were adopted in Niger (2018) and El Salvador (2020), while at the sub-national level the most recent ones were adopted by the Mexican States of Sinaloa (2020) and Zacatecas (2022).²³ In addition, 22 policies on internal displacement had been adopted in 18 countries across all continents, most recently in Mozambique and Nigeria (in August and September 2021 respectively). Over the years, many countries have also adopted IDP-specific instruments such as strategies, actions plans or other types of frameworks to define priorities and outline concrete actions governments should take to address internal displacement at national or local level. As of October 2022, the Global Database had 62 such instruments across 27 countries.

The type of instrument chosen depends on various factors, including: its adequacy in addressing the displacement situation in question; its alignment to the country’s legal and political traditions; and the prevailing political landscape opportunities at the time of development of the instrument.²⁴ **Laws, policies, strategies and action plans are not necessarily mutually exclusive tools, but may be complementary.** On the one hand, strategies and action plans are often adopted to further operationalize and detail an already existing IDP law or policy, as in the case of the *IDP state strategy* and associated action plans adopted in Georgia to complement the national IDP law.²⁵ On the other hand, many countries adopted policy and strategy frameworks in the absence (or pending the enactment) of an overall legal framework.

In principle, policies and strategies can be developed and adopted more easily and quickly than laws,²⁶ hence they can be a useful tool to pave the way for a legal framework. Many countries have approached the issue this way (under the leadership of the ministries most “sympathetic” to the IDP cause), using the opportunity provided by the participatory and inclusive development of IDP-specific policies to build the necessary consensus and political momentum around the need for a law on internal displacement, as well as to create agreement around key “sticky” issues, such as the identification of a national focal point on IDP issues. Examples are the processes followed in Kenya,²⁷ Somalia and Nigeria.²⁸ In some countries, **the development and adoption of IDP-specific frameworks at the subnational level has also been used as a strategy by local governments and other relevant stakeholders to advocate for the establishment of a national framework** - in addition to the benefits of putting in place frameworks that can regulate a clearer and better coordinated IDP response at least at the local level. This has been the case in Mexico and the Philippines.²⁹

As of October 2022, **IDP-specific national frameworks were under development or pending adoption in at least 17 countries.** Many of these processes are described in the regional chapters that follow, which particularly highlight the participatory nature of many of them. **The process through which national instruments on internal displacement are developed matters.** It matters in itself, as well as for the outcome document. A participatory process is essential to create awareness of the displacement situation, to build national ownership and increase the legitimacy of the document, to make national authorities

23 - In line with the methodology of the Global Database, “sub-national” means that the ambit of application of these documents is restricted to a specific area of the country, for example regional, district or municipal. In the case of federal states, the sub-national level includes that of federal entities.

24 - Brookings-LSE, IDMC, NRC, *op. Cit.*, 2013, p. 36.

25 - See “Europe” chapter for more information.

26 - For more considerations on the advantages of developing, adopting and using different types of instruments, see Brookings-LSE, IDMC, NRC, *op. Cit.*, 2013, pp. 37-41.

27 - See Danish Refugee Council, *Behind the Scenes: Lessons learnt from developing a National IDP Policy Framework in Kenya*, 2013.

28 - See “Africa” chapter for more information

29 - See “Issue in focus: the role of local governments” for more information.

acknowledge the displacement and assume their primary responsibility towards the displaced, and to give an opportunity to IDPs themselves to have a say on how their problems can be overcome.³⁰ “This is the happiest day in my life in a long time”, concluded a displaced man in his speech at the end of Kenya's stakeholder forum on the national IDP policy in 2010.³¹

However, when analysing patterns in these processes, one thing is particularly noticeable: **in many cases, a long time passes between the development of a draft legal or policy instrument and its final adoption** - up to ten years in certain cases. A good number of laws and policies seem to have become “stuck” over time, due to a variety of reasons. These include government changes; the difficulty in maintaining political momentum around processes that tend to last years, and in keeping internal displacement high on the agenda among many competing legislative and government priorities; and the fundamental challenges posed by those forces that fear or oppose an institutionalized response to internal displacement because of its implications, be they political or related to budget. This highlights the importance of sustained awareness-raising, capacity-building and most importantly advocacy efforts by multiple stakeholders (authorities, civil society, IDPs themselves) beyond the drafting phase, including through the identification of national “champions” as well as international and regional support when needed (including by the Special Rapporteur on the human rights of IDPs, the United Nations system, regional and sub-regional organizations, and multilateral development banks).

Finally, the Global Database also contains several IDP-specific instruments such as sectoral regulations, ordinances, resolutions, circulars, orders or administrative agreements that have been categorised as “implementing instruments”. These documents are usually adopted by different ministries and can

attribute competences, provide resources or identify specific procedures in line with larger frameworks on internal displacement. The importance of such instruments should not be underestimated, as they can be essential for the implementation of the overall frameworks. Unfortunately, there are some cases of IDP laws that have remained on paper only as none of the necessary regulations to implement them were put in place.

National instruments on internal displacement are not a silver bullet for resolving internal displacement, and their adoption is but an important first step. Ultimately, what matters is their implementation, which remains a challenge in many contexts. Implementation may stall because of a lack of state capacity, a lack of political will, or the existence of domestic opposition.³² These may take the form of limited technical, financial and human resources; lack of awareness of applicable frameworks; insufficient budget allocations; limited commitment; shifting political dynamics; staff attrition and turnover; lack of harmonization between national and local frameworks; and limited monitoring, evaluation and accountability mechanisms.³³ **More needs to be done including by protection and human rights actors to continue advocating for the implementation of existing frameworks, disseminating awareness and building the capacity of all relevant stakeholders** - including IDPs themselves, in order for them to be able to claim their rights - around them. The TTLP recognizes that systematic monitoring of the implementation of existing IDP laws and policies has also been a gap, and that more quality evidence of the impact of existing frameworks on displacement-affected populations across a variety of contexts is still needed. These are issues that the TTLP will prioritize in its work moving ahead.

³⁰ - Schrepfer, *Addressing international displacement through national laws and policies: A plea for a promising means of protection*, 24(4) *International Journal of Refugee Law* 667 (2012), p. 679.

³¹ - *Ibid.*

³² - Orchard, *Implementing the Guiding Principles at the domestic level*. *Forced Migration Review* 59, 2018.

³³ - Weerasinghe, *op.cit.*. 2021, UNHCR-IOM, pp. 46–47.



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Trends in IDP-specific Instruments

When analysing the content of the 113 IDP-specific instruments in the Global Database, the different approaches that States have taken over time in regulating internal displacement in their respective countries become quite evident. **A main distinction is between countries that have decided to address internal displacement issues partially or comprehensively in scope.** As highlighted in the handbook *National Instruments on Internal Displacement: A Guide to their Development*,³⁴ a comprehensive national instrument that covers all causes and phases of displacement and addresses current and future situations may offer greater protection to displaced communities. It can also provide the authorities responsible for IDPs with a solid regulatory basis to address all phases of a variety of displacement situations. Both the *Protocol on the Protection and Assistance to Internally*

Displaced Persons (“Great Lakes Protocol”)³⁵ and the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (“Kampala Convention”) require their respective provisions to be fully incorporated into domestic law, making it necessary for state parties to enact comprehensive instruments. However, limiting the scope of a national instrument is possible and, in light of the particularities of the displacement situation as well as the political and institutional context, may be appropriate or even preferable. An instrument may be limited to a particular cause of displacement; a particular geographical area; a particular phase of the displacement process; a particular timeframe. When limiting the scope of a national instrument, it is important to be aware of the possible consequences of such a step. Limitations must not be discriminatory and must not exclude certain IDPs from exercising their rights.

34 - Brookings-LSE, IDMC, NRC, op. Cit., 2013, p. 35.

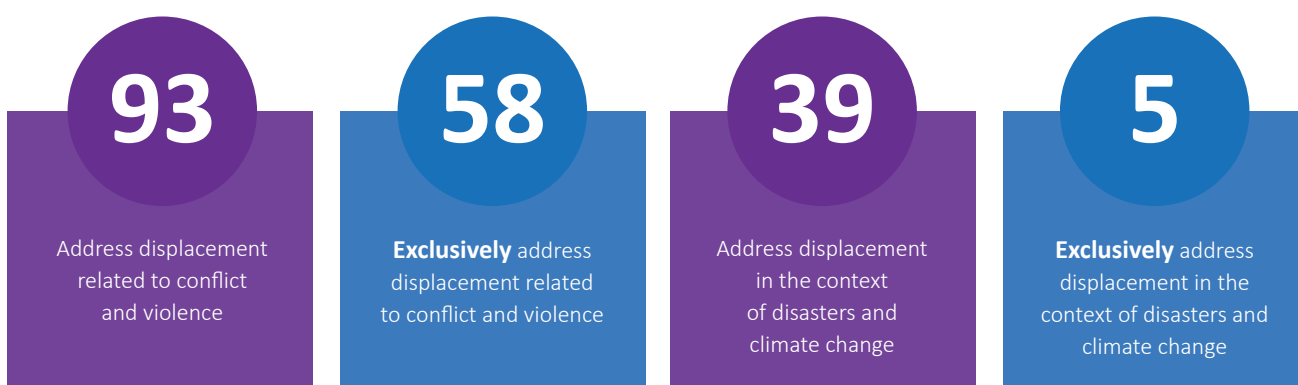
35 - Adopted by the International Conference on the Great Lakes Region in 2006.

By Cause of Displacement

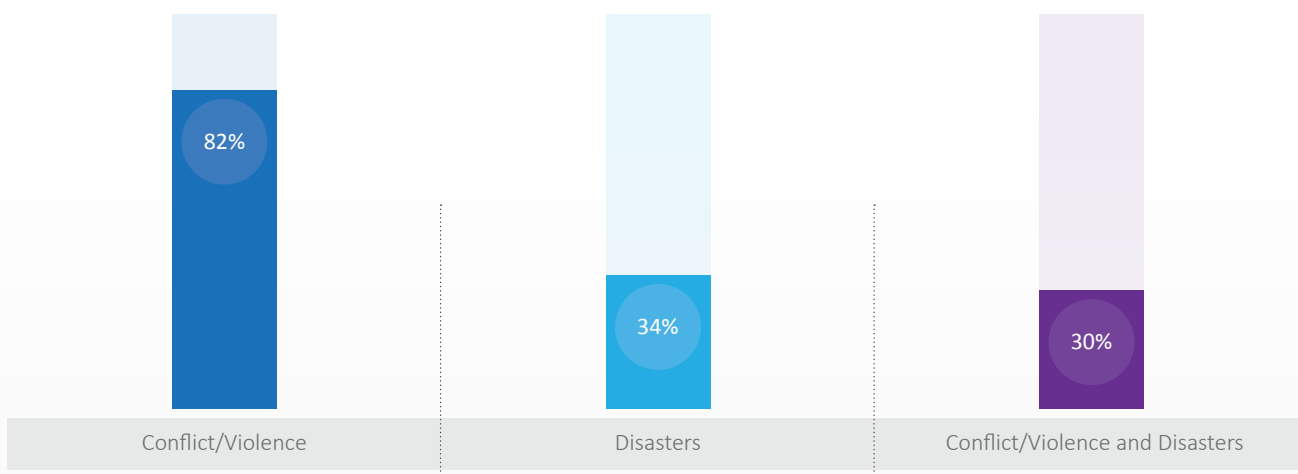
When it comes to causes of displacement, legal and policy instruments on internal displacement have **tended to focus mainly on displacement associated with armed conflict, generalized violence and human rights violations**. Out of 46 countries with at least an IDP law, policy or strategy/action plan, 42 countries

have addressed through such instruments internal displacement related to conflict and violence. This is quite a high number considering that, according to IDMC, people internally displaced due to conflict and violence were living across 59 countries as of the end of 2021.³⁶

Out of the 113 IDP-specific Instruments in the Global Database:



Elements of IDP-specific Instruments - Global:

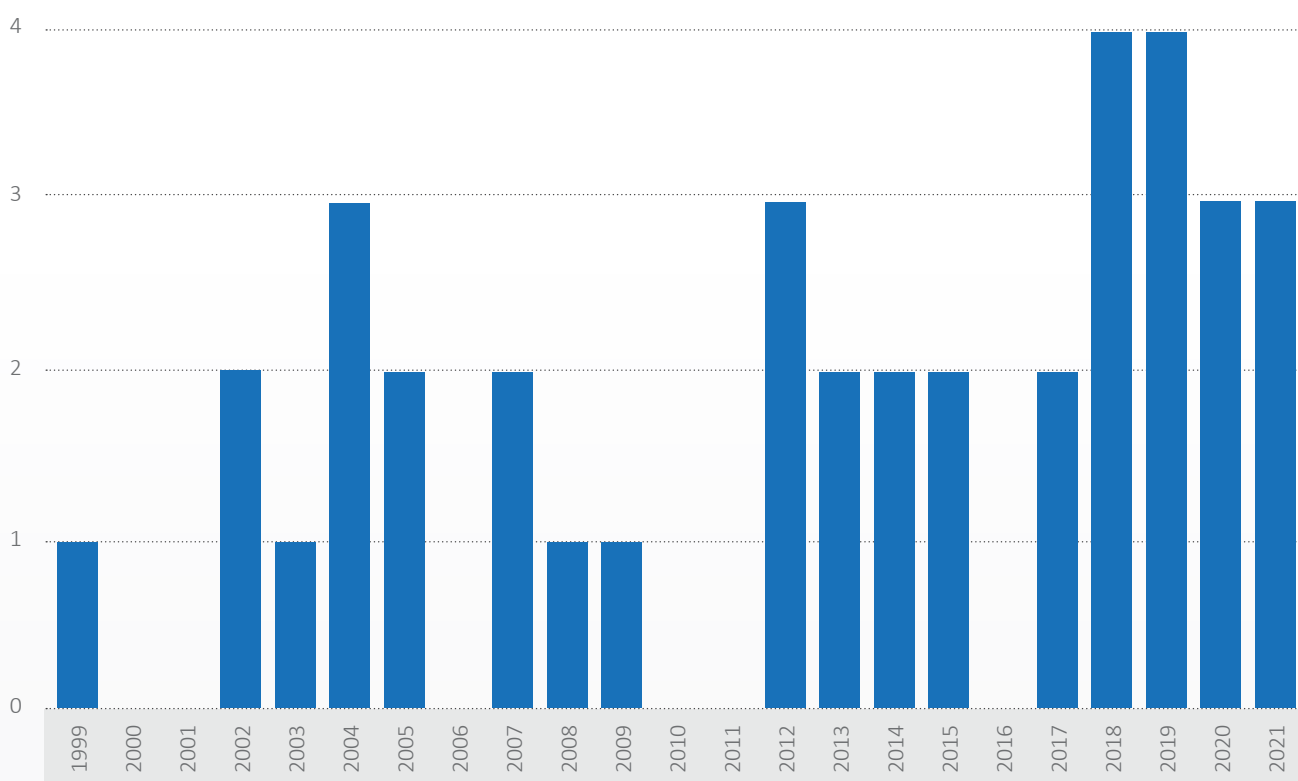


36 - IDMC, GRID 2022.

Some overall trends can be highlighted from both a geographical and chronological point of view. **Regional trends show that out of the 34 IDP-specific instruments addressing both conflict- and disaster-displacement, more than half (18) were developed in Africa.** This is in line with the legal obligation under the Great Lakes Protocol and the Kampala Convention to incorporate the provisions of these instruments into domestic law and address internal displacement comprehensively, reflecting the reality of the displacement situations in many African countries, where different causes of displacement overlap (only 3 of these 18 instruments were adopted before the adoption of these regional treaties). **Asia follows with 6 instruments addressing both causes, the Middle East with 3 and then Europe and the Americas with 2 instruments each.**

Looking at how these issues have been addressed over time, **there has been an increasing recognition of the importance of addressing causes of displacement other than conflict and violence, particularly disasters and the adverse effects of climate change.** For example, while the number of adopted IDP-specific instruments exclusively addressing displacement associated with conflict and violence has had little variation over the past two decades, the number of IDP-specific instruments addressing displacement in the context of disasters and climate change increased, including 5 instruments exclusively dedicated to displacement due to this cause between 2015 and 2020. This is a trend that we can expect to continue, given the increasing impact of the adverse effects of climate change.³⁷

IDP-specific instruments Addressing Disasters:



37 - See Section 3 of this report.

Other factors associated with displacement such as development projects have been recognized in laws and policies on internal displacement, though to a lesser extent.³⁸

By Phase of Displacement

Comprehensive IDP-specific instruments should articulate the concrete measures for the state to take around three main objectives: to protect people from displacement and prevent the conditions leading to it; to protect and assist people once they have been displaced; and to support durable solutions for IDPs, by helping them overcome their specific needs and enjoy their human rights without discrimination on account of their displacement. An analysis of the Global Database reveals that the majority of the 113 IDP-specific instruments do not comprehensively address all phases of displacement.

Prevention in particular has received relatively limited attention. Only 40 of the 113 IDP legal and policy frameworks adopted over the past two decades include some provisions on the prevention

of forced displacement, for example to establish monitoring or early warning mechanisms. This can be explained by considering that although, in principle, the pre-existence of a displacement situation is not necessary in order to establish a national instrument - it is inherent in law and policy making to regulate issues in anticipation of them occurring, especially when recurrent -, many countries developed their national instruments while facing internal displacement, therefore tailoring them to primarily respond to the particular ongoing situation.³⁹

At the same time, the number of IDP-specific instruments that include prevention-related provisions is increasing over time - a trend which can probably also be associated to the increasing number of IDP-specific instruments addressing displacement in the context of disasters and climate change (which tend to more systematically include measures related to disaster risk reduction). At the same time, the number of instruments prohibiting and criminalizing certain acts of arbitrary displacement is also growing, as previously mentioned.

³⁸ - More specifically, 20 laws and policies make reference to development projects as a possible cause of internal displacement, though in a limited manner.

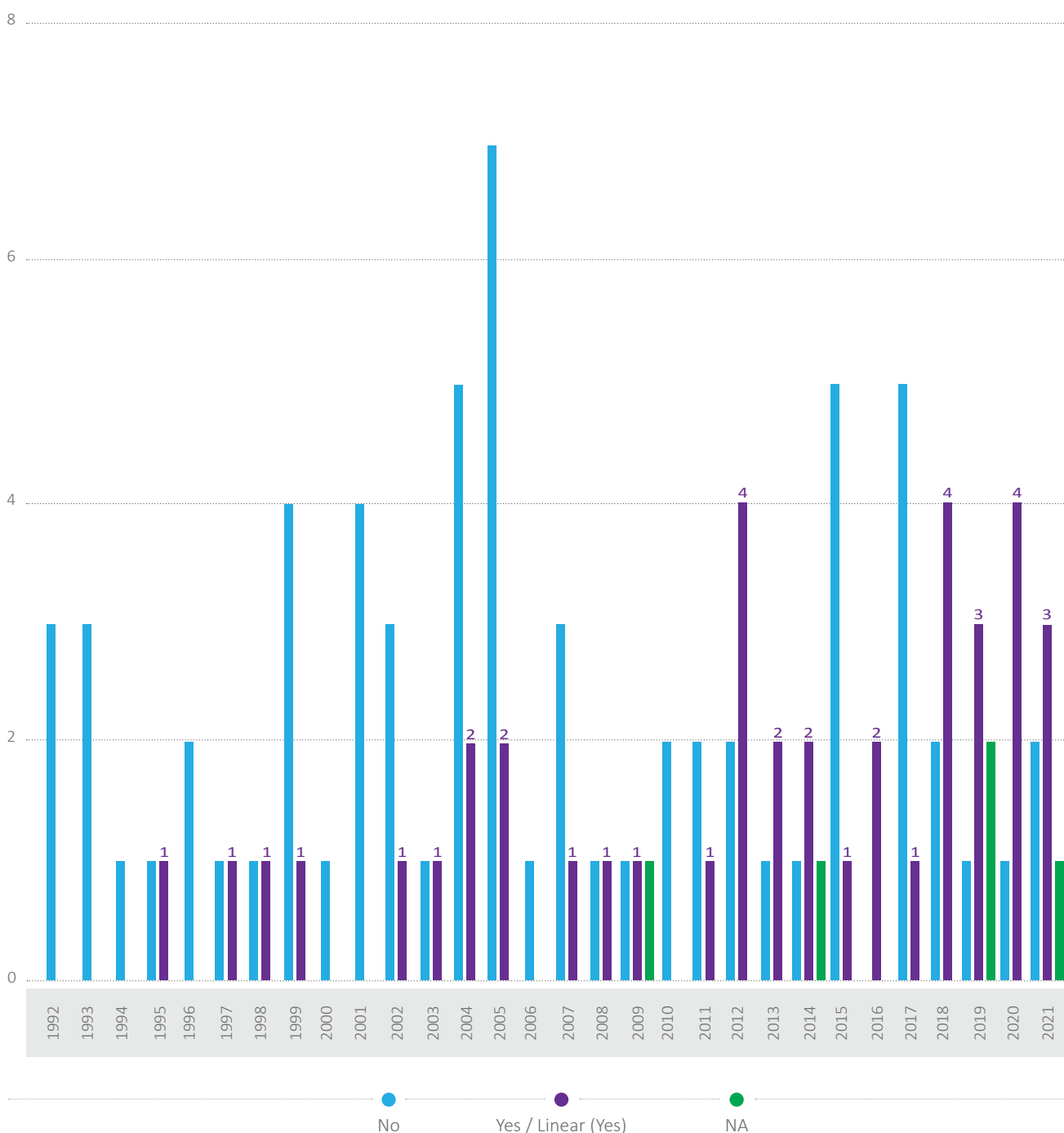
³⁹ - Schrepfer, *op.cit.*, p. 687.



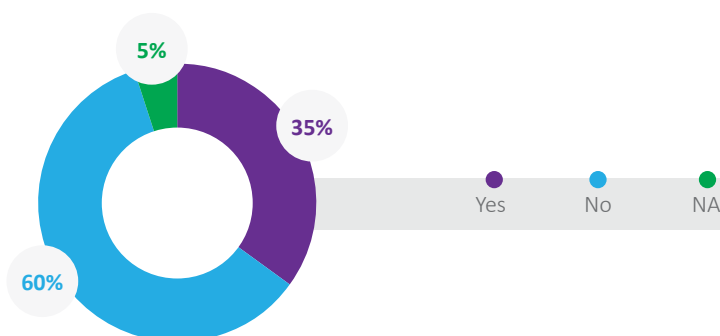
Specific measures on protection and humanitarian assistance for IDPs can be found in 78 of 113 IDP-specific instruments. This said, **the phase that has received the greatest attention overall in laws, policies, strategies and action plans on internal displacement is that of durable solutions.**

Provisions focusing on the “end of displacement” have been included in 100 out of the 113 IDP-specific instruments - though the concrete measures identified to support IDPs in this area vary a lot from one instrument to another.

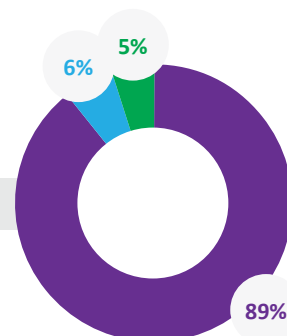
Trends in Number of IDP-specific Instruments Addressing Prevention:



Overall Share of IDP-specific Instruments Addressing Prevention:



Overall Share of IDP-specific Instruments Addressing Durable Solutions:



An increasing number of countries have adopted documents dedicated to durable solutions. As of October 2022, a total of 29 IDP-specific instruments in the Global Database had an exclusive focus on durable solutions. The first was the *National Internally Displaced Persons Return, Resettlement and Reintegration Strategic Plan for Lango and Teso Sub Regions*, adopted in Uganda in 2005. Since then, ten other countries adopted instruments on durable solutions.⁴⁰ Sri Lanka is the only one to have a policy,⁴¹ while the others adopted different types of instruments (mainly strategies). Most of these solutions-focused instruments address displacement associated with conflict and violence; only the *Durable Solutions Framework for Internally Displaced Persons and flood affected populations in Malawi* (2015) focuses on disaster displacement.

In many cases, these solutions-focused instruments are the only framework addressing internal displacement in a country. This was the case for Burundi,⁴² the Democratic Republic of Congo⁴³ and South Sudan⁴⁴ at the time of publishing this report.

Frameworks such as the 2017 Ukraine’s *Strategy On the integration of IDPs and durable solutions for internal displacement* (revised in 2021 together with its action plan)⁴⁵ and Somalia’s *National Durable Solutions Strategy* from March 2021, which complement respectively the countries’ 2014 IDP law⁴⁶ and the 2019 IDP policy,⁴⁷ tend to be more the exception than the rule. However, **the adoption of solutions-focused instruments does not exclude the need for broader, overarching legal and policy frameworks on internal displacement, as well as additional legal and policy reforms.** It can be essential for states to promote durable solution principles and concrete measures through the necessary legislative, policy and institutional reforms, by furthering the engagement of all sectors and levels of government, clarifying roles and responsibilities and allocating adequate resources. IDP laws and policies can be very helpful to create conducive conditions for the achievement of sustainable solutions.

40 - Burundi, Democratic Republic of the Congo, Ethiopia, Malawi, Montenegro, Somalia, South Sudan, Sri Lanka, and Ukraine.

41 - *National Policy on Durable Solutions for Conflict-Affected Displacements*, 2016.

42 - Burundi, *Stratégie Nationale de Réintégration Socio-Économique des Personnes Sinistrées au Burundi: Document de la Stratégie révisée sur la base des Solutions Durables*, 2017.

43 - See *Stratégie Provinciale pour des Solutions Durables en Faveur des Personnes Déplacées Internes au Nord-Kivu*, 2016.

44 - South Sudan, *National Framework for Return, Reintegration and Relocation of Displaced Person: Achieving Durable Solution in South Sudan*, 2019.

45 - Ukraine (2018), “Action Plan on implementation of the Strategy ‘On the integration of IDPs and durable solutions for internal displacement until 2020’”, approved by the Cabinet of Ministers of Ukraine on 21 November 2018 (N°944-2018).

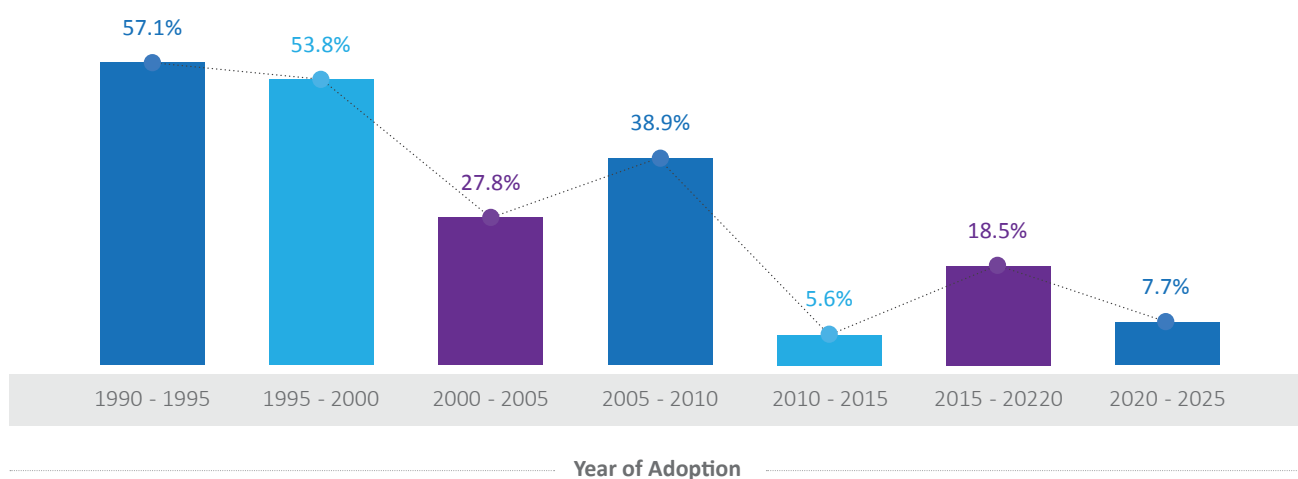
46 - Ukraine (2014), Law of Ukraine On ensuring rights and freedoms of internally displaced persons (No.1706-VII).

47 - Somalia (2019), “National Policy on Refugee-Returnees and Internally Displaced Persons”.

How have provisions on durable solutions in IDP-specific instruments evolved over time? While in the 1990s and early 2000s return and reintegration at the place of origin was often the preferred⁴⁸ or even the only⁴⁹ option put forward by states including through their legal and policy frameworks, **the past decade has seen a significant decrease in the number of IDP instruments promoting such strong and at times exclusive focus on return and reintegration, in line with international and regional standards as well as best practice in the area of durable solutions.**

Although a narrow focus on returns and lack of support for local integration continue to remain a challenge in various contexts, at least on paper such approaches seem to have given way to more nuanced ones recognizing the importance of all settlement options being open to IDPs in line with their freedom of movement and choice of residence (whether return, local integration or settlement elsewhere in another part of the country), based on their informed and voluntary choice.

IDP-specific Instruments with a Focus on Returns:



The figure above indeed illustrates such a trend, and shows quite a sharp decrease after 2010. This can be partly explained by frameworks and standards such as the Kampala Convention (2009) and the Inter-Agency Standing Committee (IASC)'s Framework on Durable Solutions for IDPs (2010), reinforcing and detailing the Guiding Principles, as well as the advocacy, awareness-raising and capacity-building efforts that have been carried out around them by a variety of stakeholders.

An increasing number of global, regional and national initiatives have also been established on durable solutions over the past decade, most of them building on these frameworks. The content of the IASC Framework - its definition of durable solutions, the key principles that should guide a solution process and the eight substantive criteria to determine to what extent durable solutions have been achieved - have been incorporated in most IDP laws and policies that have been adopted since then.⁵⁰

⁴⁸ - See for example IDP frameworks in Afghanistan, Bosnia-and-Herzegovina, Colombia, Croatia, Georgia and Serbia.

⁴⁹ - For example in Armenia, Angola, Iraq, Pakistan and Turkey. For more information, see: Adeola and Orchard, *op. Cit.* 2020, pp. 417.

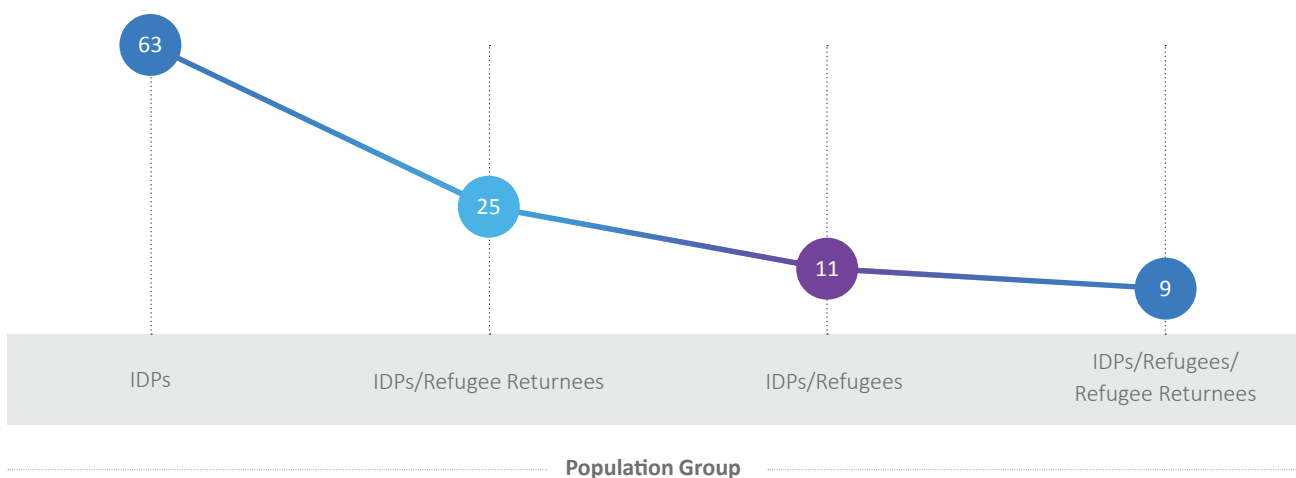
⁵⁰ - See for example: Afghanistan 2013 IDP policy, El Salvador 2020 IDP law, Niger 2018 IDP law, Nigeria 2021 IDP policy, Somalia 2019 IDP policy, South Sudan 2019 durable solutions strategy, and Yemen 2013 IDP policy.

By Population Group

Are internally displaced persons the only displaced persons whose needs and vulnerabilities are addressed through IDP-specific legal and policy frameworks? An analysis of the instruments included in the Global Database, focusing on their scope in terms of the population groups they cover, reveals

a more varied picture: while the large majority of these instruments (63) focus exclusively on IDPs; 25 focus on IDPs and refugee returnees; 11 on IDPs and refugees; and finally 9 on IDPs, refugees and refugee returnees.

IDP-specific Instruments per Population Group:



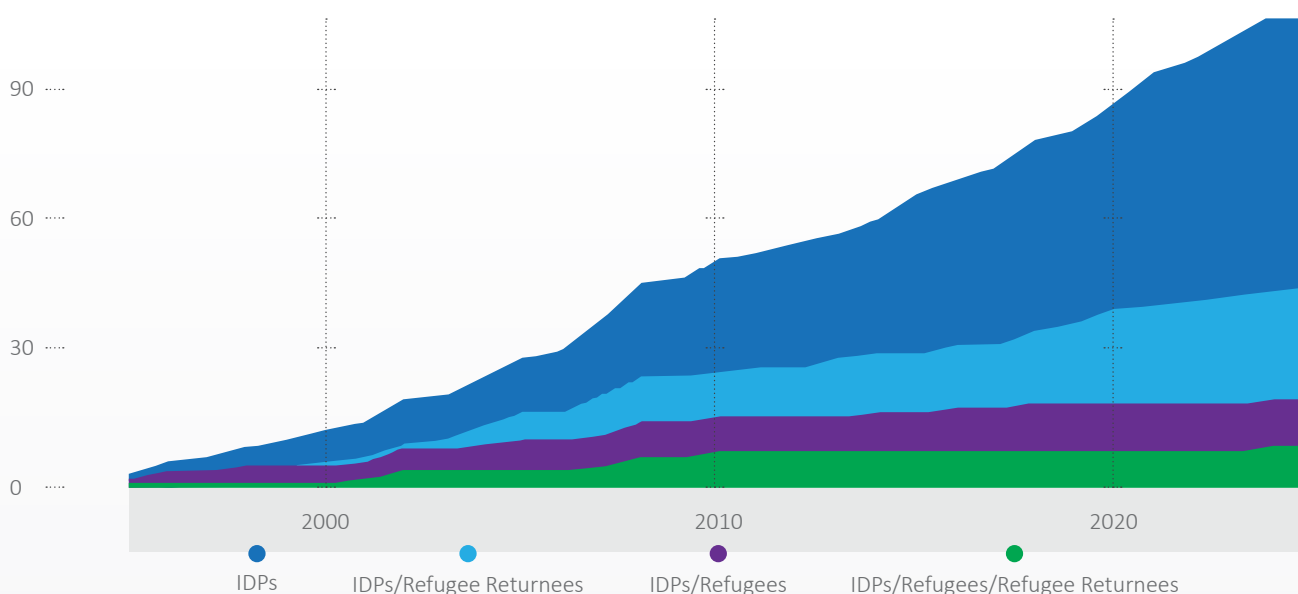
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An historical perspective shows that in the early 1990s - therefore before the publication of the *Guiding Principles on Internal Displacement* in 1998, which introduced the first definition of internally displaced persons -, the first instruments addressing the situation of people displaced within national borders also addressed the situation of refugees and, in some cases, refugee returnees at the same time. These instruments were adopted mostly in Europe, and their policy choices also reflect the complex political and displacement realities in the affected countries at the time. After 1998, only a few instruments addressed the situation of IDPs and refugees within the same document - this approach has become exceptional.

On the other hand, **the number of IDP laws and policies also including refugee returnees within their scope has continued to slowly grow over time.** This is perhaps not very surprising: after all, the *Manual for Law and Policy-Makers*⁵¹ on internal displacement in 2008 already clarified that “former refugees who have returned to their country of

origin but are unable to return to their former homes or find another durable solution through social and economic integration in another part of the country” could qualify as IDPs. Therefore, it makes sense that countries experiencing important return flows of refugees from other countries such as **Afghanistan, Burundi, the Central African Republic, Mali and Somalia** would first of all establish a framework to deal with the issue in a principled, coherent and coordinated manner, and secondly would decide to have only one framework to address issues relating to protection and solutions for both those displaced within national borders and returning refugees, especially where they live in the same areas. The importance of this approach is also reflected in the UNSG’s *Action Agenda on Internal Displacement*, which calls for action on internal displacement to be “part of a whole-of-displacement approach that also considers the rights and needs of individuals who fled across international borders, individuals who returned after cross-border displacement and host communities.”

Cumulative Number of Instruments:

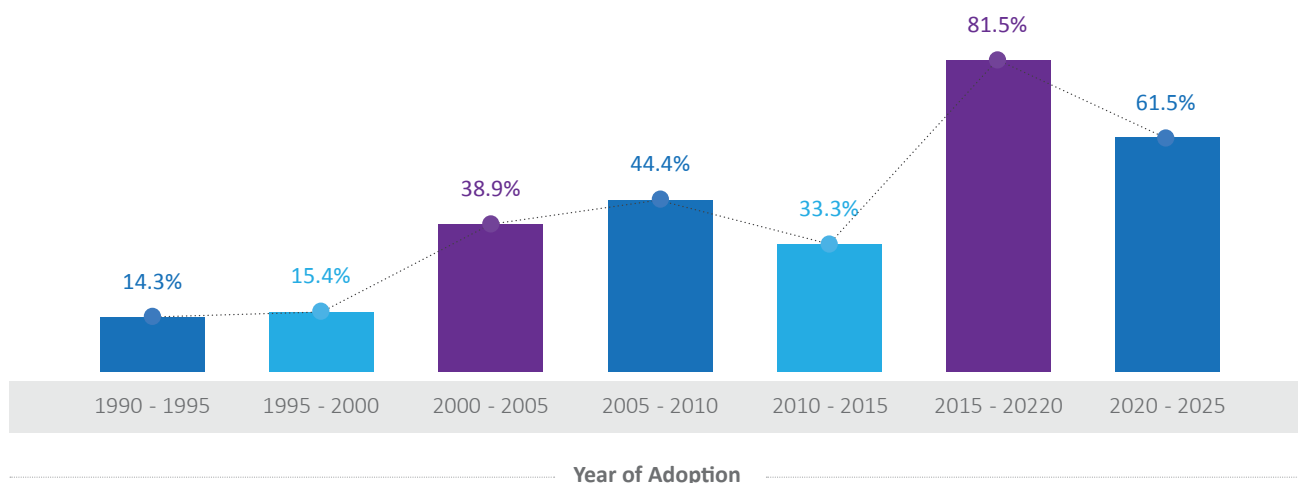


51 - Brookings-Bern, 2008.

The figure below also shows an increase in the number of IDP-specific instruments explicitly referring to or considering the situation and needs of host communities when addressing those of internally displaced people in a country.

Again, this focus has been increasingly advocated for by many stakeholders when discussing approaches to addressing internal displacement, also clearly included in the Kampala Convention and the IASC Framework on Durable Solutions.

IDP-specific Instruments with a Focus on Host Communities:



Building on this, a final point of interest concerns the definition itself of an internally displaced person. States' legal and policy responses vary in how they define IDPs. One 2020 study found that across a total of 72 IDP-specific frameworks, only 21 explicitly use the IDP definition included in the Guiding Principles. More frequently, IDP definitions are limited in three ways: they are either limited to citizens, to specific regions or timeframes, or to particular causes (as analysed above).⁵² However, some instruments have also expanded the Guiding Principles' definition of an internally displaced person to better tailor it to the displacement situation it aims to address. A good example of this is provided by the *National Policy on Refugee-Returnees and Internally Displaced Persons* adopted by the Federal Government of Somalia in 2019, which in its glossary defines as IDPs as:

- "persons or groups of persons who have been forced or obliged to leave their original homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, *clan-based* or other forms of generalized violence and insecurity, development projects, violations of human rights, or natural or human-made disasters, and who have not crossed an internationally recognized state border;
- *persons or groups of persons who are forcibly evicted from their settlement, and who have no access to an adequate housing or land alternative or to appropriate compensation that would allow them to restore their lives in a sustainable manner; and*

⁵² - Adeola and Orchard, *The Role of Law and Policy in Fostering Responsibility and Accountability of Governments Towards Internally Displaced Persons*, Refugee Survey Quarterly, 2020, pp. 414-415. For example, Sudan's 2009 IDP policy refers exclusively to IDPs as being 'Sudanese' citizens; the policy framework adopted by Kyrgyzstan in 2010 emphasises that it applies to citizens whose homes were destroyed in June 2010 in two areas of the country.

- *pastoralists who have lost access to their traditional nomadic living space through loss of livestock, or loss of access to grazing and water points or markets, and have therefore left their habitual living space.*

(...)

c. *Persons falling under categories a and b qualify as IDPs regardless of whether they stay in identified IDP sites or live in urban areas together with non-displaced communities or with host families, irrespective of the cause and duration of their displacement, and their clan and area of origin."*

The last point on IDPs' location is a particularly important recognition, as practice in a number of countries has shown that IDPs living in urban areas or generally out-of-camps may not even be considered by some authorities as IDPs. When considering who is and who is not an IDP according to the specific provisions of some IDP laws and policies, particular attention should be dedicated to the challenges that may derive from a legal or *de facto* creation of an "IDP

status", which is not provided for under international law but is established in certain countries. This point is addressed more in detail later in the report, in the Europe chapter.

This also links the IDP law and policy agenda more broadly with the issue of data, in terms of two aspects in particular: firstly, the data on internal displacement that is often collected with the explicit or implicit objective to inform law-and-policy development and implementation and monitoring; and secondly, the fact that laws and policies for the protection of and assistance to IDPs are more frequently including provisions around data that can determine who, how and what data on internal displacement are collected and for what purpose they are used. Both aspects are important and deserve to be explored in more depth, especially considering the significant resources often required to produce the desired data and analysis. This is an issue that the TTLP will also follow up on in collaboration with partners such as the Expert Group on Refugee, IDP and Statelessness Statistics (EGRIS).⁵³

Governance Structures for Internal Displacement

As mentioned in the introduction of this report, one of the essential elements of any state regulation on internal displacement is the establishment of effective governance structures to ensure systematic, coordinated and human rights-based responses to internal displacement.⁵⁴ This means that a law or a policy should:

- Designate a focal point on IDP issues;
- Identify clear responsibilities for all relevant authorities, among all level of governments, as well as effective coordination arrangements; and
- Allocate adequate resources.

⁵³ - Caterina & Lizcano, *The Question of Data in Internal Displacement Law-and-Policy-making*, Refugee Survey Quarterly, 2020, 39, 634–646.

⁵⁴ - See Brookings-Bern, *op.cit.*, 2008; [A/70/334](#).

The variety of institutional frameworks outlined in the IDP-specific laws and policies in the Global Database shows that States have chosen different institutional approaches to managing responses to internal displacement and that there is no one-size-fits-all.

The figure below represents some of the options States have taken with regard to designating focal points on IDP issues and reflects some of the key lessons resulting from the implementation of such frameworks, as summarized by the Special Rapporteur on the human rights of internally persons in a report dedicated to this subject.⁵⁵

Institutional Frameworks:

A BOUQUET OF OPTIONS:



Regardless of the focal point, internal displacement has been increasingly recognized as an issue that requires a whole-of-government approach to be adequately and comprehensively addressed,⁵⁶ acknowledging that many different ministries and government agencies have an important role to play. A good number of the draft IDP laws that were under development/pending adoption in October 2022 (for example in Ethiopia, Honduras, Nigeria and South Sudan) reflect this approach, as they identify roles for a wide range of authorities, and foresee the establishment of inter-ministerial and multi-stakeholder committees to facilitate coordination among all the actors involved in the response. The role of different ministries has been for example helpfully described in Somalia’s national IDP policy, in its Article 4.3.2:

“ (...) With the support of the Ministry of Interior, Federal Affairs and Reconciliation, the responsible ministries shall, in particular:

a *Review their sectoral laws and policies to ensure that they include refugee-returnees and IDPs, and address their particular needs*

and vulnerabilities; where laws and policies do not cover these populations, they shall be adapted accordingly;

b *Review their planning and programming under sectoral laws and policies to ensure that IDPs and refugee-returnees are able to access and benefit from such programmes on an equal basis with other Somali citizens;*

and

c *Integrate the specific needs of refugee-returnees, IDPs and other displacement-affected communities into their sectoral plans, programmes and projects.”*

When relevant authorities prioritize such tasks, this can have a very significant impact on the lives of IDPs. For example in Honduras, internally displaced teachers and those at risk of displacement have been advocating for the Ministry of Education to adopt a protocol that would allow the expedited transfer of teachers whose personal safety is at risk.⁵⁷

Issue in focus: The role of local governments

As of 2010, the majority of IDPs lived in camps. By 2020 the trend had reversed, and where UNHCR was involved in situations of internal displacement in 2019, two out of three IDPs were living in urban or semi-urban areas - not camps.⁵⁸ This is in line with global urbanization, and it is expected that by 2050 cities will likely contain as much as 68 percent of the world's population.⁵⁹ Local governments often have an in-depth understanding of issues IDPs face because of their proximity to the populations they serve. How they engage in the development and implementation of laws and policies on internal displacement has therefore a vital impact on the social and economic inclusion of IDPs,⁶⁰ which highlights the importance of whole-of-government approaches including relevant authorities at all levels.

⁵⁶ - See for example GP20, National Compilation of good practices, 2020; UN SG’s High-Level Panel on Internal Displacement, *Shining a Light on Internal Displacement: A Vision for the Future* and its ensuing *Action Agenda*.

⁵⁷ - UNHCR, *Impact of violence in 220 educational centres in Tegucigalpa*, 2018.

⁵⁸ - UNHCR, *Global Trends 2019*, p. 33.

⁵⁹ - UN, *68% of the world population projected to live in urban areas by 2050*, says UN, 18 May 2018.

⁶⁰ - See *A/HRC/19/54*, 2011.

Issue in focus: The role of local governments (continued)

Local governments are institutions that have authority over a subnational area.⁶¹ They have different compositions and can include a governor, local council of representatives, as well as technical and administrative units. They usually include state institutions at various territorial levels, with different obligations, responsibilities, and powers. They may have different budgetary structures. Furthermore, they may be managed by a mix of elected representatives, political appointees, and public officials selected on the basis of diverse election processes. As a result, even though they are part of the state, local governments include distinct institutional and political organizations that do not necessarily mirror that of the national government.

Local governments in national policies and laws on internal displacement

Implementing national IDP laws and policies happens locally. Local governments facilitate the issuance of documentation and provide access to assistance and local services. The mandate of local governments is often defined by legislation; authority over education, public health, land, sanitation, and water management, among other local services, is usually delegated to them. As a result, coordination with both national entities and local governments is required when enacting policies and laws on internal displacement.



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It is fundamental to be clear on the role and responsibilities of local governments in national instruments on internal displacement. Their functions should be in line with their actual mandates, capacities and resources, as well as other legal, institutional or political factors such as the level of actual decentralization, political autonomy, and local socio-economic contexts. This can also help prevent and avoid differences in the responses between local governments, as well as potential tensions between the national and sub-national governments where local governments have certain degrees of political autonomy.⁶²

Good practices already exist in this area. For example, the *Prevention, Protection, and Assistance to Internally Displaced Persons and Affected Communities Act*, adopted by **Kenya** in 2012 outlines the establishment of National Consultative Coordination Committee and subcommittees at the county level (Article 5(1)(b)), dictating that County Governments are responsible for the administrative implementation of the law in accordance with their functions and powers. The Law of **Ukraine** “*On Securing the Rights and Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territory of Ukraine*” (2014) clearly outlines in its Article 11 the powers of executive bodies and local governments on ensuring rights and freedoms of internally displaced persons. In **Colombia**, the obligations of local authorities are outlined in laws⁶³ and standards developed to complement the IDP law, and the Constitutional Court ensures compliance of these standards by local authorities.⁶⁴ With the adoption of the Victims’ Law in 2011, the role of the local governments was articulated in the principle of “co-responsibility”⁶⁵ with a dedicated strategy.⁶⁶ Amongst other measures, this embeds the victims’ programs and assistance into local development plans, the delegation of competencies from national to subnational entities, as well as a system of transfer of financial resources among them.

Allocation of clear responsibilities, alignment and coordination among different levels of IDP protection and assistance systems is particularly important for federal states. The *National Policy on Refugee-Returnees and Internally Displaced Persons* adopted by the Federal Government of **Somalia** in 2019, for instance, recognizes the roles of the Federal Member States (FMS) and the Benadir Regional Administration in particular (BRA) in emergency response, relocation and solution processes, therefore requesting all institutions to closely collaborate with the line ministry for IDPs and returnees in these areas. National policy upholds the authority of existing strategies and action plans of the subnational entities FMS and the BRA related to refugee-returnees and IDPs. Doing this avoids conflicting policy between levels. Along the same lines, the *National Policy on IDPs of the Federal Republic of Nigeria* from 2021 uses the expression “*in conjunction with relevant State and Local Government agencies*” when referring to the responsibilities of federal ministries towards IDPs. The policy also states that the federal line ministry for IDPs is responsible for: mobilizing relevant authorities at federal, state and local government levels to fulfill their roles and responsibilities regarding IDPs issues; organizing and

62 - Vidal, Atehortúa, and Salcedo, *Desplazados Internos Fuera de los Campos. El papel de las autoridades locales en Colombia. Estudio comparado en Bogotá D.C. y Cali*, 2013, Brookings Institution – LSE Project on Internal Displacement.

63 - See for example Law N°1190 of 2008.

64 - In addition to disciplinary sanctions, other control and follow-up mechanisms exist. These provide incentives to officials to fulfill their legal responsibilities, such as the issuance of a certificate to affirm the fulfilment of the obligations of territorial authorities and other entities of the system.

65 - See Articles 26, 161 and 172 of the Victims Law and Decree N°4800 of 2011.

66 - See Decree N°2460 of 2015 that establishes the “*estrategia de corresponsabilidad de la política pública para las víctimas del conflicto armado interno*”.

Issue in focus: The role of local governments (continued)

maintaining relationships with relevant national authorities; providing appropriate advice and capacity support if required; and ensuring that the integration of approaches for protecting and assisting displaced persons and host communities are mainstreamed into the policies and practices of relevant local authorities. The policy also emphasizes the role of the line ministry in liaising with local and state governments to enact relevant laws on the protection and assistance of IDPs, in line with their respective legislative competences under the Nigerian Constitution.

Local authorities can and should contribute to inform the content of laws and policies, so that they meet the actual needs of the IDPs in their communities.⁶⁷ **It is essential for local governments to participate in the development of national legal and policy instruments on internal displacement.** National authorities should lead inclusive processes ensuring the adequate involvement of their local counterparts, as the **Mexican State of Michoacán** did earlier this year. Representatives of key municipalities affected by internal displacement were involved throughout the IDP law-making process in 2022, and a dedicated consultation session to inform the draft law and better explore the role of municipalities in the protection of IDPs was also organised in August 2022.

Access to adequate financial resources is one of the main issues local governments face.⁶⁸ However, there are examples where national and local governments are overcoming such issues. To better support local governments, for example, in 2017 the Government of **Ukraine** adopted the Order N°769, providing grant subsidies from state to local budgets to repair and construct social and housing facilities destroyed in conflict.⁶⁹ Local governments in Somaliland and Puntland, supported by the State Ministry of Interior and other key line ministries, have delivered key social services to IDPs by implementing the *Social Development Models* (SDM). These are co-funding intergovernmental fiscal grants between the State Ministries, the Local Governments, and the Joint Programme on Local Governance. Local Government Laws in Somaliland (Law N°23) and Puntland (Law N°7) receive funds for health, education, and WASH facilities, payment of salaries for cleaners and guards in those facilities, utility bills, top-up of teachers' salaries, and water infrastructure. A Memorandum of Understanding between the supporting partners, the Ministry of Interior, Line Ministries and SDM Local Governments clarifies the roles and responsibilities creating accountability around the transfers, including contributions from local and state level budgets.

Local governments are diverse in their size, economic development, capacities, and vary in their relationship to national governments. It is important to factor in the specific competencies of local governments as well as access to funding within programs benefiting IDPs. Furthermore, the approach needs to be flexible over time. An example is learning from implementation challenges in one area before it is scaled up to the regional level or brought to other cities and municipalities. In the Philippines, three of metropolitan Manila's most vulnerable cities Navotas, Pateros and Quezon implemented a project to

67 - Parliamentarians as political leaders of specific constituencies are also important in that respect. See *Inter-Parliamentary Union and UNHCR, Internal Displacement: Responsibility and Action- Handbook for Parliamentarians N°20*, 2013.

68 - See for example Kamungi, *Municipalities and IDPs Outside of Camps: the case of Kenya's 'integrated' displaced persons*, 2013, Brookings Institution – LSE Project on Internal Displacement.

69 - See Ukraine's *submission* in 2020 to the UN Secretary-General's High-Level Panel on Internal Displacement.

strengthen community-based preparedness including evacuation and camp management in vulnerable urban barangays or sub-districts in the event of a major earthquake or flood hazards. This was based on the *National disaster risk reduction law and national guidelines*,⁷⁰ and later, the lessons learned from the pilot project were institutionalized through barangay-level government initiatives.⁷¹

Local governments' instruments on internal displacement

Local governments have specific instruments to complement national governments' laws and policies. While displacement is often framed as an unpredictable or temporary phenomenon, local governments have an interest in regular strategic planning processes. Local governments can integrate the response to IDPs into local development plans, develop local-level durable solutions strategies, and establish new or amend existing local laws and policies to enable IDPs to fulfill their rights.

As of September 2022, ten percent of the total number of Instruments included in the Global Database on Law and Policy on Internal Displacement had been adopted at the sub-national level.

Many of these instruments are strategies and action plans that were developed and adopted to facilitate the implementation of overarching national frameworks at the local level, as highlighted for example in the regional chapter for Europe. However, it is interesting to see that **in a number of countries, the legal, policy and institutional responses to internal displacement were actually initiated at the subnational level in the absence of overall national frameworks** - including as a way of promoting and advocating for the establishment of those.

Important examples of this trend are: **Mexico**, where four laws on internal displacement were already adopted at the state level and three more are in the making, while the draft national IDP law has been pending for adoption since 2019; **Somalia**, where the adoption of a national IDP policy was preceded by the development of IDP policies in Puntland and Somaliland; similarly in **the Philippines**, in parallel to the ongoing efforts to promote the long-awaited adoption of a national IDP Bill, progress has been made on an IDP Bill at the subnational level in the Bangsamoro Autonomous Region in Muslim Mindanao. Interestingly, some municipalities have also explored the possibility of adopting IDP Ordinances at their level in order to ensure a better coordinated and more effective response. In **Honduras**, the Municipality of San Pedro Sula established a technical committee on internal displacement. In 2018, this committee created a municipal system of response ensuring that every institution involved (such as those responsible for health, social development, children and adolescents etc.) now include IDP-specific measures in their respective policies and programmes.⁷²

70 - See Department of the Interior and Local Government, *Guidelines for Local Government Units on the Strengthening of Evacuation Systems Using the Local Disaster Risk Reduction and Management Fund (LDRRMF), Memorandum Circular No. 122, Series of 2018.*

71 - For more information, please see: GPC (2020), "Philippines: Community Participation in Evacuation Planning in Metropolitan Manila," GP20 Country Examples.

72 - See UN, *Shining a light on internal displacement: A Vision for the Future- Report of the UN Secretary-General's High-Level Panel on Internal Displacement*, 2021, p. 33.

Local data collection is another instrument that is crucial to identifying priorities and budgets for local authorities to improve the quality of the response to internal displacement. In **Somalia**, two collaborative profiling exercises were conducted with the support of the Joint IDP Profiling Service (JIPS) and REACH in Mogadishu and Hargeisa, to gain understanding of the displacement situation and to inform planning for durable solution policies and programmes.⁷³

The results of the profiling informed the creation of a task force in Mogadishu led by the Mayor to develop the *2020-2024 Benadir Regional Administration's Durable Solutions Strategy*, in line with the Mayor's commitment to end displacement by 2024. Similar studies were also conducted in Baidoa and Bosaso. In line with the Government of **Iraq's National Development Plan and Poverty Reduction Strategy, the Provincial Response Plans (2018-2022)** - developed in Anbar, Diyala, Kirkuk, Nineveh and Salah al-Din Governorates through multi stakeholder participatory approaches highlight the social and economic profile of IDPs, as well as key challenges by sector and with population profiles.⁷⁴

Finally, local governments may also interact and create networks of local governments on internal displacement. In its Resolution N°448 of 2019, the Congress of Local and Regional Authorities of the **Council of Europe** recommended the establishment of a pan-European network of local and/or regional authorities in order to address protracted displacement. The collaboration between local governments can support the exchange of information and experiences, as well as create a coalition to raise their voices to higher authorities, including to request funding.⁷⁵ In Colombia, Bogotá and Cali have tried to ally with municipalities where displacement originated to facilitate and support their return, though these efforts have been challenged by security issues.⁷⁶ Nevertheless, the political leadership of local governments has a crucial role in rallying the residents of their jurisdiction to have solidarity with displaced people for seeking a successful solution to internal displacement in the short and long term.

IDP-inclusive Instruments

As mentioned in the introduction to this report, internal displacement is a cross-cutting issue that relates to many different policy areas. **While IDP-specific laws and policies may be necessary to provide a general and coherent framework for governments' response on internal displacement,**

mainstreaming the issue in other legal and policy frameworks may also be necessary to address the specific needs and vulnerabilities of IDPs, support durable solutions for them and prevent the conditions leading to new or renewed displacement wherever possible.

⁷³ - See GP20, *Somalia: Data and Analysis to Inform Collaborative Approaches to Finding Durable Solutions*, 2020; JIPS, *Profile at a Glance: Somalia, Mogadishu*, 2016.

⁷⁴ - See: <https://new.ladp-iraq.eu/prp>

⁷⁵ - Council of Europe's Congress of Local and Regional Authorities, 2019, *op. cit.*

⁷⁶ - Vidal, Atehortúa and Salcedo, 2013, *op. cit.*

Where legal or policy frameworks on internal displacement exist, it is crucial to guarantee the coherence and cooperation between the different frameworks at the normative, institutional and operational level.

Over half of the instruments⁷⁷ included in the Global Database are laws, policies, strategies, action plans and other types of documents related to policy areas such as education, health, land management, development planning, political rights or documentation, which all make some specific provision for, or reference to, the situation of IDPs (to varying degrees). The list is however not exhaustive, so the total number of IDP-inclusive instruments should be considered an underestimate (see report methodology). Some of them prioritize

access to services to displaced people according to their specific needs and vulnerabilities; others aim at removing potential political or administrative barriers to IDPs' enjoyment of rights or create specific mechanisms or measures to deal with some of the losses associated with the displacement.

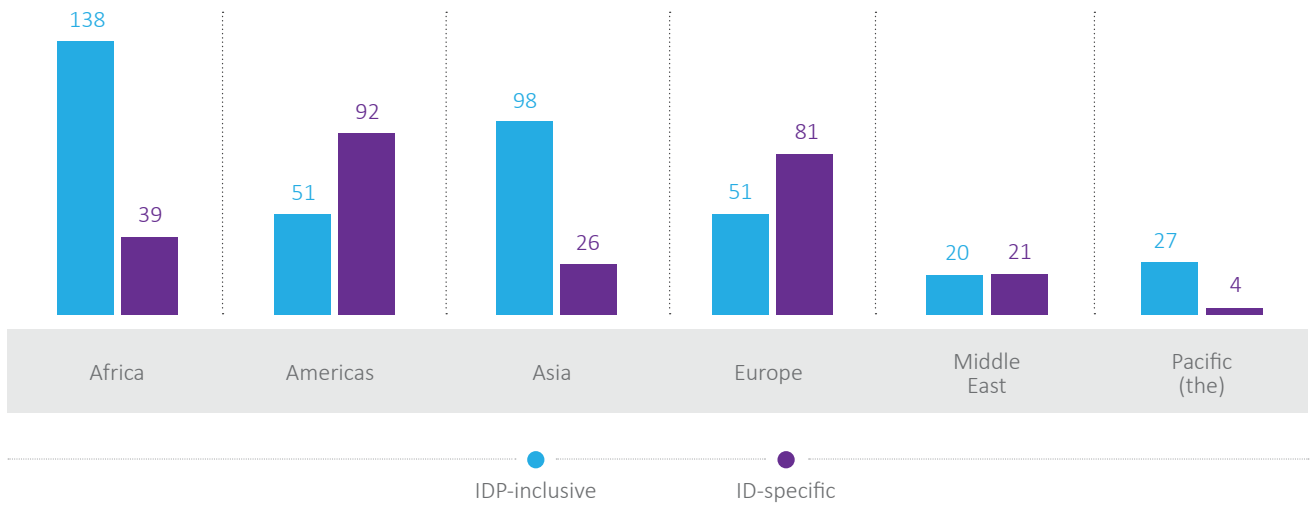
When looking at the regional breakdown of IDP-specific and IDP-inclusive instruments below, it is interesting to note that: Africa has the highest number of IDP-inclusive instruments among all regions; Americas has the highest number of IDP-specific instruments (92), followed by Europe (81); Middle East and the Pacific regions have the lowest number of IDP-related instruments (both inclusive and specific).

77 - 386 instruments out of a total of 648.

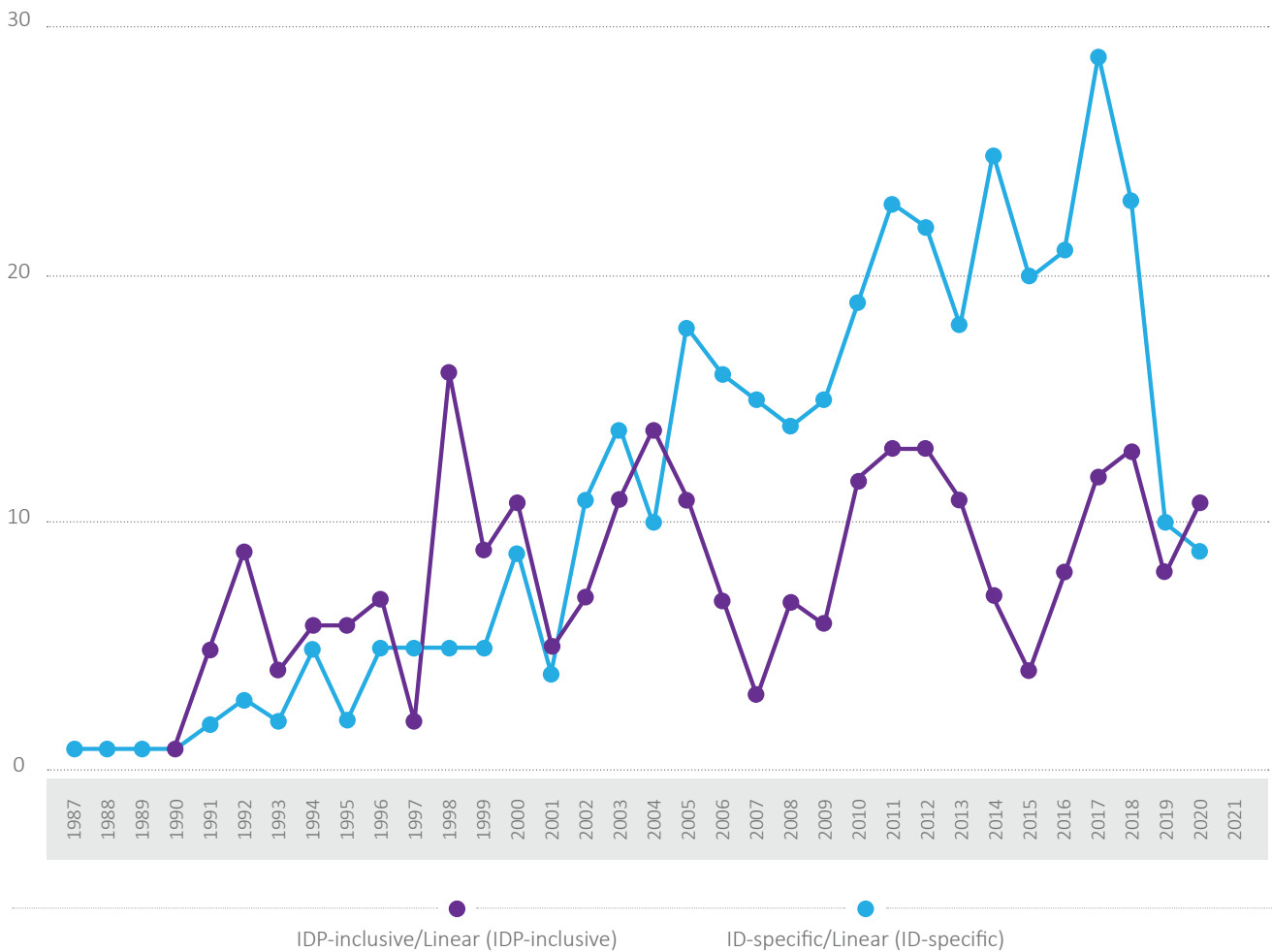


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Number of Instruments by Region and Content:



Trends in IDP-inclusive and IDP-specific Instruments 1991-2021:



The adoption of IDP-inclusive instruments has been continuously growing over the past two decades, in line with international and regional legal norms, recommendations and examples of good practice across various sectors. Two trends have increasing relevance in recent years: **the inclusion of internal displacement in national (and local) development plans; and the inclusion of internal displacement in instruments related to disasters and climate change**, addressed in detail in Section 3 of this report.

National development plans (NDPs) establish a country's overarching development priorities and related strategic direction in response to identified national needs, challenges and opportunities. NDPs propose an overall plan and implementation strategies for the allocation of resources over time and across various sectors, and as such help in guiding authorities' decisions and support predictability. These plans are often supplemented by local development plans, which translate the national strategic goals into local objectives, identifying the means necessary to reach them. NDPs are increasingly considered as an extremely valuable tool for a government's response to internal displacement, given that internal (particularly protracted) displacement represents a complex development challenge that can impede the sustainable development of entire regions or reverse development gains.⁷⁸

NDPs can therefore contribute to bridging the gap between humanitarian and development action on internal displacement. In recent years, an increasing number of countries have included in their NDPs references to the situation of IDPs and/or in some cases durable solutions for them,⁷⁹ though the content of such provisions vary depending on the instrument.⁸⁰ **Even in countries where overarching laws and policies on internal displacement exist, development planning instruments (including others beyond NDPs, such as poverty reduction strategies) can efficiently supplement them by guaranteeing the multi-sectorial and long-term dimensions of the response.**⁸¹

Finally, it should be noted that among the IDP-inclusive instruments in the Global Database also feature some criminal codes - those that include certain acts of arbitrary displacement as a crime. Under international law, States have an obligation to prevent and prohibit arbitrary displacement. This obligation entails, among other duties, the criminalization of acts of arbitrary displacement that amount to international crimes. In addition, States can further fulfil their international obligations to prevent arbitrary displacement by establishing criminal offences for instances of arbitrary displacement that do not amount to international crimes, yet are prohibited under international law. Interestingly, the number of countries including certain forms of arbitrary displacement as ordinary crimes under domestic legislation is growing.⁸²

⁷⁸ - See the 2030 Agenda for Sustainable Development (particularly its objective to "leave no one behind" including the IDPs), and the final report of the UN Secretary-General's High Level Panel on Internal Displacement.

⁷⁹ - See for example Colombia, Iraq, the Philippines, Somalia, South Sudan and Yemen.

⁸⁰ - For more information, see Weerasinghe, op. Cit., 2021, UNHCR/IOM.

⁸¹ - See for example Iraq's *National Poverty Reduction Strategy (2018-2022)*, or Azerbaijan 2030: *National Priorities for Socio-Economic Development*.

⁸² - For more on this see UNHCR-TTLP, *Making arbitrary displacement a crime: Law and Practice*, March 2022.

Issue in focus: Internal displacement and statelessness

A stateless person is someone who is not recognized as a national by any State. Becoming displaced, either across borders or within a country, does not automatically affect somebody's nationality status; most displaced persons remain nationals of their country. However, in some cases there can be a close connection between statelessness and internal displacement. Internal displacement can lead to statelessness where territorial boundaries have been redrawn following displacement. It can also cause risks of statelessness in case of lack of access to birth registration or when identity documents which provide proof of nationality are lost or destroyed. This is particularly a risk for minority groups. At the same time, statelessness can also be a contributing factor to internal displacement, such as in cases of arbitrary deprivation of nationality or discrimination against specific communities.

To prevent risks of statelessness in situations of displacement, States should make every effort to ensure continuing access to civil registration, including birth registration, and to address legal and practical obstacles to accessing civil registration. Displaced parents are often disproportionately affected by such barriers that can include a legal requirement to register the birth of a child in the place of residence of the parent(s) or where the birth took place, the payment of fees, or cumbersome procedures. Obstacles should be addressed so children of displaced persons do not face risks of statelessness. Governments should also ensure that stateless people who habitually reside in the country and who have been displaced are protected against expulsion and should be authorized to exercise and enjoy their rights in areas of displacement. Efforts to grant or confirm nationality for persons whose nationality status is in dispute or in doubt need to be sustained.

In collaboration with relevant Protection Cluster members, UNHCR provides support to governments in issuing civil registration documents to internally displaced persons and in relevant legal reforms to prevent risks of statelessness. As an example of good practice, **Niger's** Law on the Protection and Assistance of IDPs has a provision on access for IDPs to civil status registration. Further, the country's Civil Status Law adopted in 2019 provides that civil registration centres are to be located closer to the populations; in case of mass displacement, civil registration centres can be created in the locations receiving IDPs and managed by IDP representatives; and there is an extended timeline of six months for registration of civil status in emergency situations.

SECTION 2:

REGIONAL TRENDS



Africa

Context:

Internal displacement in Africa is the result of multiple and often intertwined causes, including conflict, different forms of generalized violence (linked to inter-communal, ethnic, political factors among others), human rights violations, disasters and the adverse effects of climate change. More than three quarters of all new internal displacements in 2021 occurred in Sub-Saharan Africa.⁸³ The largest numbers were observed in the East and Horn of Africa and Great Lakes region, with nearly 4.1 million recorded in Ethiopia, Somalia, South Sudan and Sudan. The crisis in the Tigray, that broke out in late 2020, led to at least 2.5 million internally displaced persons in 2021. In the West and Central Africa region there were 1.6 million new internal displacements, mainly due to escalating conflicts in Burkina Faso, Nigeria and the Central African Republic. In Southern Africa, 1.5 million people were newly displaced in the Democratic Republic of the Congo (DRC) and 76,900 in Mozambique. Disasters and the adverse effects of climate change including drought and extreme temperatures also lead to displacement and often hit areas already affected by conflict and violence. The eruption of Mount Nyiragongo in DRC in May 2021 triggered the highest number of disaster displacements in the region last year.⁸⁴

A Unique Legally Binding Tool on Internal Displacement: the Kampala Convention

December 2022 will mark the tenth anniversary of the entry into force of the **African Union Convention for the Protection and Assistance of Internally**

Displaced Persons in Africa (also known as the “Kampala Convention”), the first legally binding continental treaty for the protection and assistance of IDPs, adopted by the Special Summit of the African Union (AU) on 23 October 2009 in Kampala, Uganda. The Kampala Convention is a standard-setting instrument that was designed to be inclusive of all aspects of internal displacement, based on a combined framework of international human rights law and international humanitarian law. It complements the African human rights system, based on the African Charter on Human and Peoples’ Rights and its main monitoring mechanisms - the African Court on Human and Peoples’ Rights and the African Commission on Human and Peoples’ Rights,⁸⁵ including its AU Special Rapporteur on the Rights of Migrants, Refugees, Returnees and IDPs.

By setting out the obligations of State Parties, the Kampala Convention complements the Guiding Principles: while the latter focus on the rights of IDPs, the former is intended as a more practical tool for duty-bearers. **The Kampala Convention aims at generating functional capacity and translates into concrete duties many of the benchmarks of the 2005 Framework on National Responsibility.**⁸⁶ In particular, Article 3(2) requires State Parties to:

- Incorporate their obligations under the Convention into domestic law by enacting or amending relevant legislation;
- Designate an authority or body for coordinating protection and assistance for IDPs;

⁸³ - UNHCR, *Global Trends Report 2021*, p. 24.

⁸⁴ - IDMC, *GRID 2022*, p. 35.

⁸⁵ - In May 2017, the African Court has for example delivered a landmark judgment regarding the case No. 006/2012 versus Republic of Kenya about persistent evictions of the Ogiek community from the Mau Forest Complex.

⁸⁶ - Brookings-Bern, *Addressing Internal Displacement: A FRAMEWORK FOR NATIONAL RESPONSIBILITY*, April 2005.

- Adopt other measures as appropriate, including strategies and policies on internal displacement at national and local levels, taking into account the needs of host communities; and finally, allocate the necessary resources to State efforts in this area.

The Convention is widely regarded as a major advancement in building a legally binding regulatory framework for the protection of IDPs. This is partly due to the role it attributes to all stakeholders – States but also other groups and entities involved in or affected by internal displacement (non-state actors, humanitarian organizations etc.). However, the very first legally binding treaty on the protection and assistance of the IDPs was established in the sub-region of East and Central Africa, when the Heads of State and Government of the International Conference on the Great Lakes Region (ICGLR) Member States⁸⁷ adopted in Nairobi the *Pact on Security, Stability and Development in the Great Lakes Region* in 2006.⁸⁸ The Pact includes 10 Protocols, which are legally binding for all ICGLR Member States, two of which are particularly relevant to situations of internal displacement: the *Protocol on the Protection and Assistance to Internally Displaced Persons*, and the *Protocol on the Property Rights of Returning Persons*.

The 2006 Protocol on the Protection and Assistance to IDPs paved the way for the development of the 2009 Africa Union Kampala Convention, already requiring Member States to incorporate the Guiding Principles into their national legislation and obliging them to designate a focal point or dedicated mechanism to deal with IDPs (Article 6), while adopting a whole-of-government approach with a

focus on durable solutions. The ICGLR Protocol is the foundation of the Kampala Convention, and the two speak to each other in many ways; for example, the Guiding Principles are an annex to the Protocol, while the Convention incorporates them; it was even felt at the time that if the attempts to push through the Kampala Convention were to fail, the Protocol on IDPs could have been adopted at the AU level instead.⁸⁹

As of October 2022, **33 out of 55 AU Member States were parties to the Kampala Convention.**⁹⁰ **Becoming a State Party at the international level only represents an initial step towards the full implementation of the Convention. Action towards its incorporation into domestic law should swiftly follow to realize its full potential.** The first country to complete the domestication of the Kampala Convention was **Niger**, with the adoption of its law on internal displacement in 2018.⁹¹ However, several other states were leading such processes as of October 2022, including **Burkina Faso, Chad, Ethiopia, Mali, Nigeria, Republic of Congo, Somalia and South Sudan.**

Article 14 of the Kampala Convention establishes a Conference of State Parties to monitor and review the implementation of the objectives of the Convention. The first Conference of State Parties took place in Zimbabwe in 2017. On that occasion, State Parties adopted the *Harare Plan of Action for the Implementation of the Kampala Convention (2017-2022)*. To support states' domestication efforts, the African Union adopted its *Model Law on Internal Displacement* in 2018,⁹² to serve as a reference document for drafters of relevant legal and policy frameworks.

⁸⁷ - ICGLR Member States are: Republic of Angola, Republic of Burundi, Central African Republic, Republic of the Congo, Democratic Republic of the Congo, Republic of Kenya, Republic of Rwanda, Republic of South Sudan, Republic of the Sudan, United Republic of Tanzania, Republic of Uganda, and the Republic of Zambia.

⁸⁸ - The Pact and its Protocols entered into force in June 2008.

⁸⁹ - Key informant interview with Dr. Chaloka Beyani, 23 June 2022.

⁹⁰ - See *Status Ratification List*.

⁹¹ - See *Loi relative à la protection et l'assistance aux personnes déplacées internes au Niger*.

⁹² - Available at: <https://www.refworld.org/docid/5afc3a494.html>.



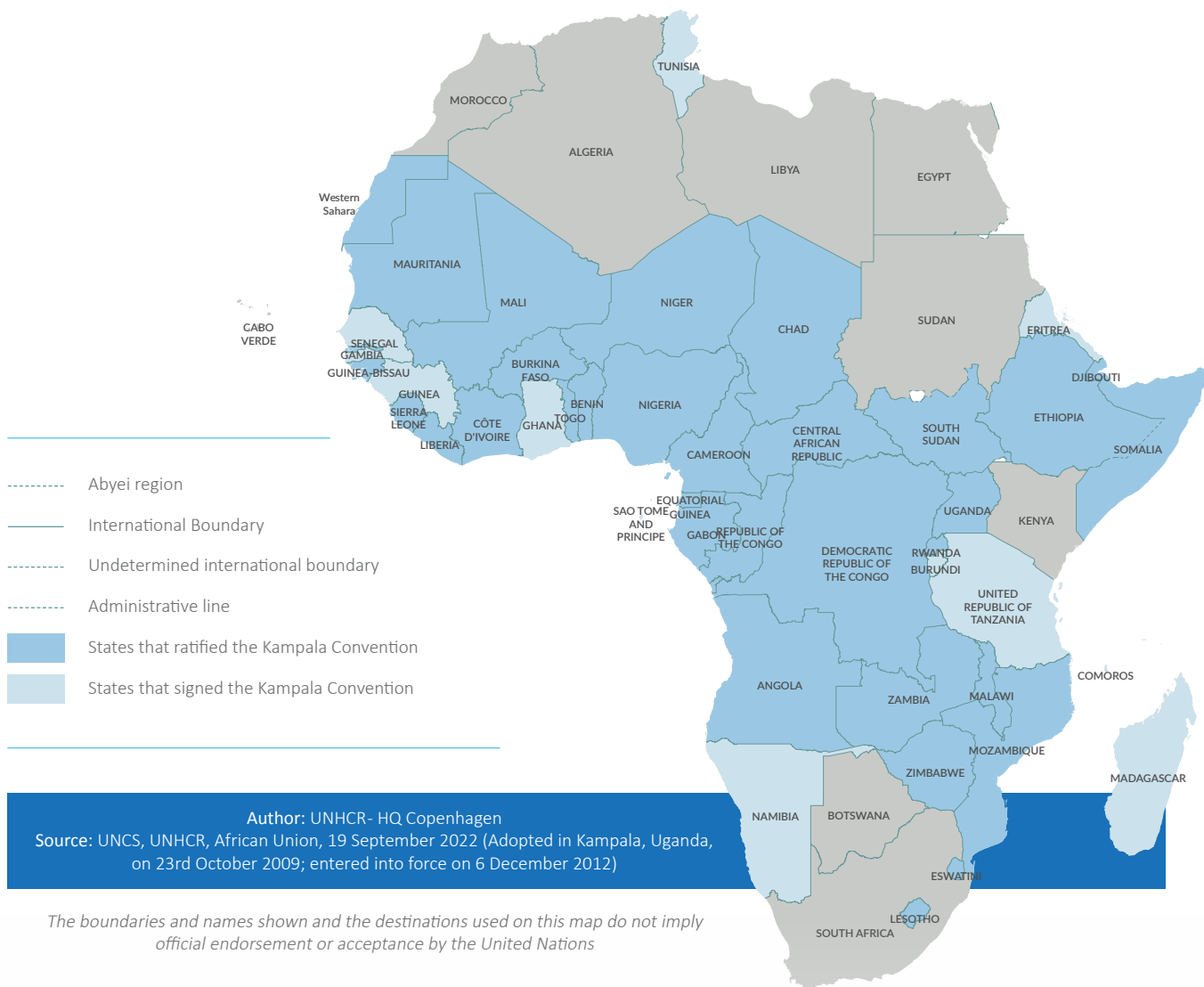
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The following year, the AU put a spotlight on forced displacement by launching in February 2019 the AU's "Year of Refugees, Returnees and Internally Displaced Persons: Towards Durable Solutions to Forced Displacement in Africa". A rich programme of events commemorating the 50th anniversary of the 1969 OAU (Organization of African Unity) Refugee Convention and the 10th anniversary of the 2009 Kampala Convention aimed to urge Member States to become a party to and implement the conventions. Key recommendations focused on addressing root causes of forced displacement, implementing measures to strengthen protection and sustainable durable solutions for millions of the continent's refugees, asylum-seekers and IDPs, and addressing the growing impact of climate change. In commemoration of the 10th anniversary of the entry into force of the Kampala Convention, the AU plans a series of activities including the convening of its second Conference of States Parties.

This will consider and adopt its second Plan of Action and launch an Explanatory Note to the Kampala Convention.

In addition to these efforts, the African Union regularly organizes with UNHCR a training initiative entitled "*The AU Humanitarian Architecture: Law and Policy Training*", also known as the "*Livingstone Syllabus*". The training principally targets policy-makers and civil service officials from AU Member State governments; it is tailored to address the specificities of the African humanitarian context and designed as a capacity-building tool to deepen their understanding of international and regional instruments (including the Kampala Convention) in order to achieve the effective protection of, and assistance to, forcibly displaced persons through improved understanding and effective implementation of obligations of Member States contained thereof, in line with the AU's Humanitarian Roadmap (2016 to 2030). It also provides a forum for participants to share experience and best practices.

African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention as of 19 September 2022):



Additional useful tools that can be used by States and their partners working in this area include a report released by the ICRC in 2020, summarising the findings and recommendations resulting from a stocktaking exercise the ICRC carried out in 25 African countries to identify how States could best meet their obligations to displaced people under

the Kampala Convention and translate them into practice;⁹³ and a *Training Manual for Civil Society Organisations on the Kampala Convention and its Model Law*, developed by the Norwegian Refugee Council with a view to reinforcing the capacities of African CSOs to better contribute to the protection of the human rights of IDPs.⁹⁴

93 - ICRC, *Translating the Kampala Convention into Practice*, June 2020.

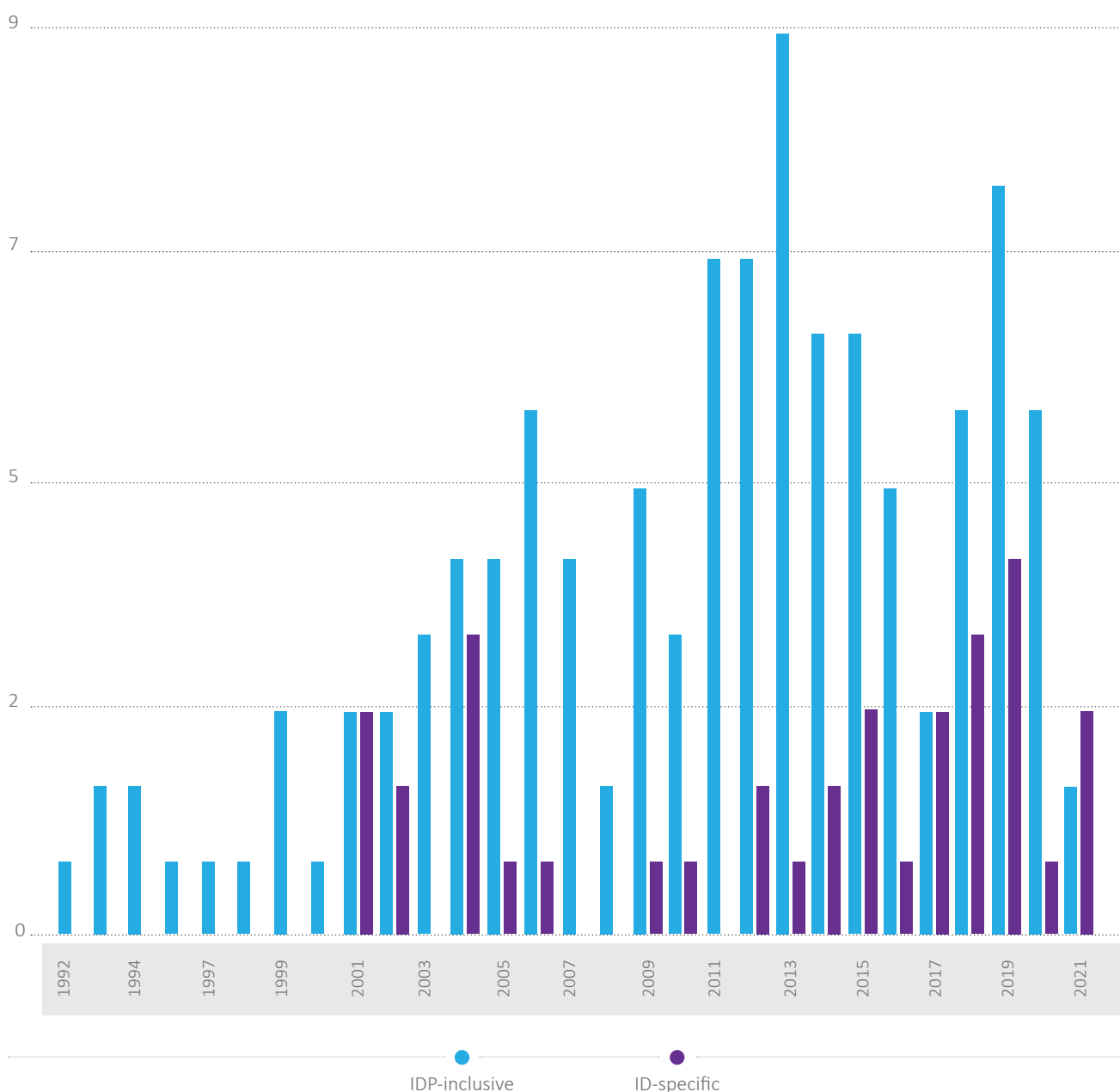
94 - See: <https://reliefweb.int/report/world/training-manual-civil-society-organisations-kampala-convention-and-its-model-law>.

National Legal and Policy Developments

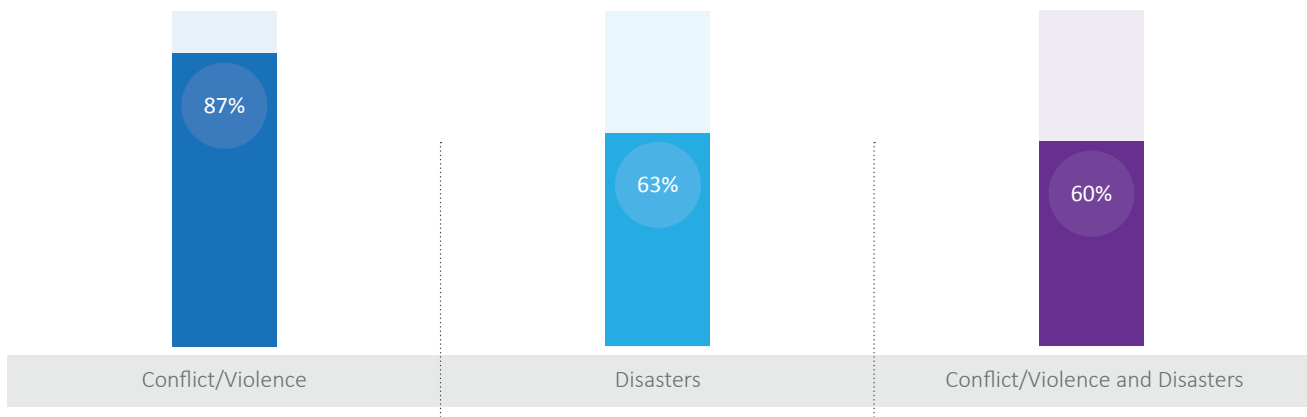
By the end of 2021, a total of **28 legal and policy instruments specifically addressing internal displacement had been adopted in Africa across 17 countries**. Out of these, **two are laws (adopted by Kenya and Niger)**; **10 are national policies and 16 are other types of instruments** (national

strategies, plans or programmes), some of which have been adopted at the sub-national level. Some countries developed national instruments in line with the Guiding Principles even before the adoption of the Kampala Convention, for example Angola, Burundi, Liberia, Sierra Leone and Uganda.

Trends in IDP Related Instruments - Africa Region, 1992-2021:



Africa - Causes of Displacement in IDP-specific Instruments:



In line with the Convention, the scope of instruments on internal displacement in Africa tend to be particularly comprehensive in terms of the situations they encompass, covering all causes and all phases of displacement. Many also address issues that are particularly relevant for the continent, such as the specific needs of internally displaced pastoralists.⁹⁵

Given the common root causes and characteristics of internal displacement situations at the regional and sub-regional levels, the commitment of many states to pursue (sub-)regional approaches to preventing and addressing forced displacement, and the important role played by sub-regional organisations in this area, certain legal and policy trends can be identified within the continent.

In **West Africa**, the Parliament, Court of Justice and Commission of the Economic Community of West African States (ECOWAS) have become increasingly engaged on humanitarian issues over the years, including internal displacement. At the first ECOWAS Ministerial Conference on Humanitarian Assistance and Internal Displacement in West Africa in 2011, Ministers adopted a declaration welcoming the Kampala Convention and calling for its signature,

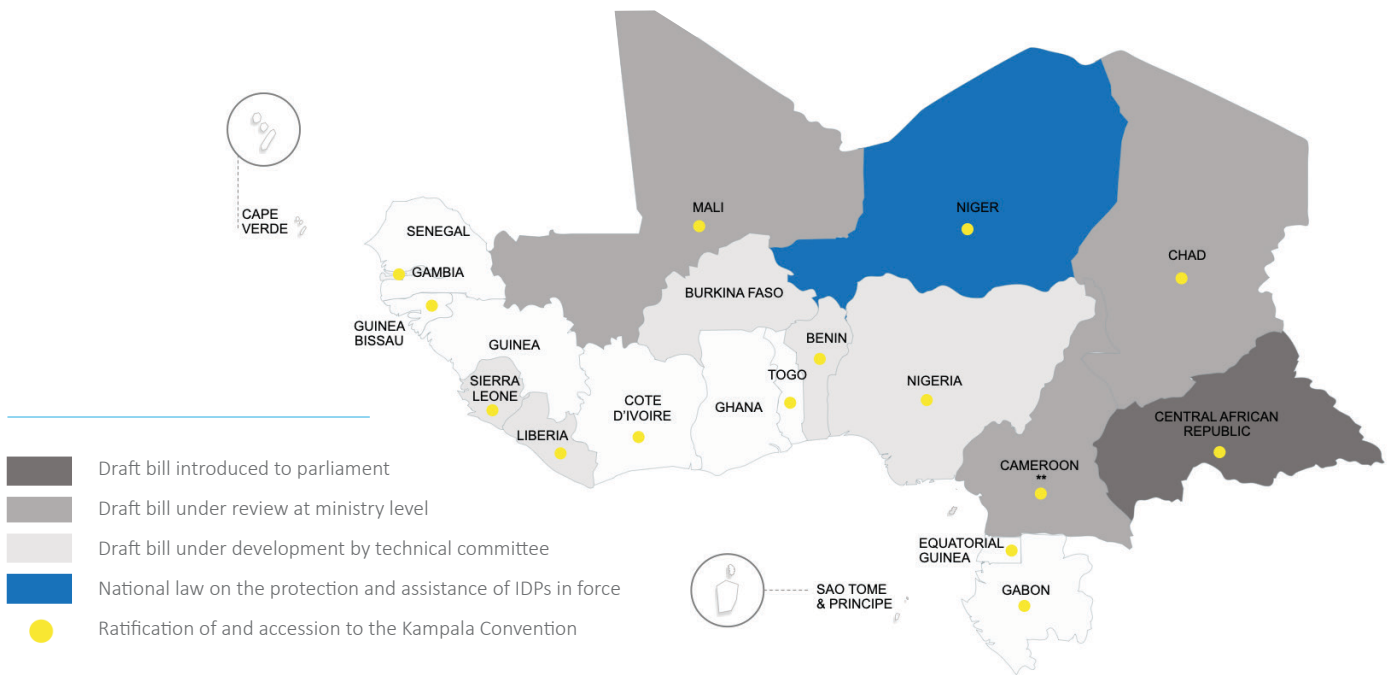
ratification, domestication and implementation by ECOWAS Member States. This political commitment contributed to the coming into force of the Kampala Convention in 2012 as eight out of 15 signatories originated from West Africa. In March 2019, a peer-to-peer exchange was held among ECOWAS Members of Parliament and national IDP experts from the 15 ECOWAS Member States aimed to: share experiences on domestication and implementation of the Kampala Convention in their contexts, including good practices and challenges; make recommendations to increase ratification and domestication as well as improve implementation in the sub-region; and explore the possibility for including the Kampala Convention into ECOWAS community law.⁹⁶ ECOWAS continues to engage its Member States and organize targeted activities promoting the Kampala Convention, at national level. As illustration of such, ECOWAS organized workshops in Burkina Faso, Togo and Ghana to support either ratification or domestication. As of October 2022, all ECOWAS Member States but four had ratified the Kampala Convention (**Guinea**, **Ghana** and **Senegal** are signatories but have not ratified, and **Cape Verde** is the only non-signatory).

⁹⁵ - It should be noted that internal displacement was included as a key issue in the peace agreements of at least 15 countries in Africa. As a result, in some contexts, peace agreements have been the main political instruments that have addressed internal displacement. This was for example the case of Djibouti, Guinea Bissau or Senegal.

⁹⁶ - See [Event Report](#).

West and Central Africa Regional Overview:

Frameworks for the Protection and Assistance of Internally Displaced Persons (March 2022)



In West Central Africa, five countries never ratified or acceded to the African union convention for the protection and assistance of internally displaced persons in Africa (Kampala Convention). Only one country domesticated the Convention through the adoption of a dedicated law. Such legal frameworks are crucial to regulate the protection of internally displaced persons (IDPs) in a transparent and predictable manner.

** The draft law is currently under review by the Prime Minister's office

The governments of **Cameroon**, **Chad**, **Niger** and **Nigeria** expressed their commitment to domesticating the Kampala Convention during the Regional Protection Dialogue on the Lake Chad Basin in 2016.⁹⁷ Following that, **Cameroon** deposited its instrument of ratification in May 2017; in December 2020, the ICRC organized a workshop of the protection of IDPs in Cameroon in which representatives of the government, as well as other international and national stakeholders, participated. Consequently, the government set up a drafting committee and an IDP bill was prepared. The government organized a workshop to receive comments and inputs on the draft legislation on 12-14 September 2021.

As of May 2022, the draft law on the protection and assistance of IDPs in Cameroon was still under study at the inter-ministerial level after the Prime Minister had asked the Ministry of Territorial Administration for an opinion.

In **Chad**, the domestication of the Kampala Convention was also one of the commitments made by the Government at the 2019 Global Refugee Forum. A technical committee was established by the Minister of Territorial Administration in April 2019, which worked to prepare a first draft of the IDP bill through a series of consultations in 2020, despite delays linked to the COVID-19 pandemic and the latest presidential elections.

⁹⁷ - See [Abuja Action Statement](#). Commitments were reconfirmed in its follow-up meeting in 2019.

Two workshops were organized before the end of 2021 to advance this agenda: one on 7 December, during which a technical team reviewed and validated the draft; and a second high level inter-ministerial technical workshop was organized on 14 December to formally hand over the draft IDP law to the government. In February 2022, a presentation note for transmission to the Council of Ministers via the Minister of Territorial Administration was elaborated. An inter-ministerial expert group further developed a draft decree to facilitate the implementation of the IDP law and finalized it during a five-day workshop with support from UNHCR, IOM and ICRC in May 2022. In July 2022, the Bill as well as its accompanying draft decree were returned to the government following a validation workshop. Moving forward, partners' priority remains the need for information and awareness raising sessions for parliamentarians to ensure a swift adoption and promulgation of the draft IDP law and its implementing decree.

Niger was the first country in Africa to adopt a national law on internal displacement domesticating the Kampala Convention, which it ratified in 2012. In December 2018, Niger adopted the *Law on the Protection and Assistance of Internally Displaced Persons*, with an unprecedented 98 percent approval at the National Assembly.⁹⁸ The Ministry of Humanitarian Action and Disaster Management (MAHGC) had overarching responsibility for its development, which was coordinated through a steering committee comprising representatives of various ministries and intergovernmental actors.

The process was highly participative; the MAHGC organized a series of workshops in which international actors, civil society organisations, IDPs, national and regional authorities participated, to identify national legislation main gaps, in line with international standards, as well as to raise awareness. The IDP Law has 10 chapters that discuss prevention of displacement, protection of IDPs, assistance to IDPs, durable solutions, the institutional framework, and offences against IDPs, humanitarian staff and humanitarian aid.

Despite some difficulties related to the capacity of the leading ministry, the consultative process has allowed for the quick adoption of government directives to support the law's implementation, such as *Decree No. 2020-298* determining its implementation modalities.⁹⁹ In addition, various bodies were established to take the work forward, including a National Committee for Data Collection and Information Management on IDPs in Niger (in October 2019)¹⁰⁰ and a National Coordination Committee for the Protection and Assistance of IDPs (in April 2020).¹⁰¹ In November 2019, a committee for the elaboration of an action plan implementing the country's *Humanitarian and Disaster Management Policy* was also set up.¹⁰² Finally, while national action plans on protection and solutions to forced displacement in the Sahel region were also developed in the framework of the Bamako Dialogue in September 2019,¹⁰³ a national working group on durable solutions was also created in February 2022, which will help implement the provisions of the law in this area.¹⁰⁴

98 - See: <https://www.refworld.org/docid/5ce404914.html>.

99 - Décret N° 2020-298/PRN/MAH/GC du 17 avril 2020 déterminant les modalités d'application de la loi n° 2018-74 du décembre 2018 relative à la protection et à l'assistance aux personnes déplacées internes, 2020.

100 - Arrêté No.0012 tr MAH/GC du 12 octobre 2019.

101 - Décret No.2020-297 déterminant l'organisation et les modalités de fonctionnement du Comité de Coordination nationale de protection et d'assistance aux PDI (17 April 2020), complemented by Arrêté No.04/MAH/GC/SG/DL du 28 février 2022 portant désignation des membres du Comité de Coordination nationale de protection et d'assistance aux PDI.

102 - Arrêté n°0029/MAH/GC/SG/DL du 10 Nov portant création, attributions et composition du Comité d'élaboration du Plan d'actions de la politique humanitaire et de gestion des catastrophes.

103 - See *Plan d'Actions National de Renforcement de la Protection et des Solutions dans le Cadre de Déplacement Forcé au Sahel (PAN/RP/S) 2021-2025 – Dialogue de Bamako*, 11-12 Septembre 2019.

104 - See Arrêté n°05/MAH/GC/SG/DL du 28 février 2022 portant création d'un groupe de travail sur déplacement de population, retour et solutions durables.



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It should be noted that while the provisions of the IDP law do not make notable distinctions on the treatment of those displaced in the context of conflict or disaster, the concept of an “IDP” is relatively new in Niger and became prominent due to the activism of non-state armed groups, insurgency and counter-terrorism operations, rather than in connection with disasters and the adverse effects of climate change. As a result, in practice, people displaced for example by floods are not necessarily perceived as IDPs unless they have also been displaced by conflict. This has implications for the implementation of the IDP Law and suggests a need to raise awareness among key stakeholders regarding their obligations towards IDPs affected by disasters and other triggers.¹⁰⁵

Nigeria ratified the Kampala Convention in 2012, but the country’s Presidential Committee on Internally Displaced Persons had initiated the process to develop a national IDP policy already in 2006. A multi-sectoral group of technical experts and consultants steered the policy development and review process over the years, bringing together the submissions of the draft policy review committee, inputs of external reviewers, as well as facilitating multiple stakeholder consultations that insured a broad-based participatory and inclusive process. As addressing internal displacement requires the participation of several ministries, departments and agencies of Government, it must be noted that prior to the creation of the Federal Ministry of Humanitarian Affairs, Disaster Management and

105 - IOM-UNHCR, *Bridging the Divide in Approaches to Conflict and Disaster Displacement: Norms, Institutions and Coordination in Afghanistan, Colombia, Niger, the Philippines and Somalia*, 2021, p. 139.

Social Development (FMHADMSD) in 2019, there was little or no coordination among these agencies providing protection and assistance to IDPs. This is why **the establishment of a legal and policy framework in line with international and regional standards has been - and continues to be - a priority for the Government.**

The Federal Executive Council finally approved the *National Policy for Internally Displaced Persons* in September 2021,¹⁰⁶ which was officially launched in March 2022. The policy is a very comprehensive document, addressing all causes and all phases of displacement, and clearly delineates the roles and responsibilities of all agencies involved in the management of IDPs, with the FMHADMSD playing a central role of coordination in line with its mandate. Efforts are ongoing to develop an action plan that will support the policy implementation. The policy itself noted that a key requirement of the Kampala Convention is for its provisions to be incorporated in the domestic legal framework, and this was also a commitment expressed by the government at the 2019 World Refugee Forum. As a result, **Nigeria** has taken steps to complete the domestication process by law. Initially, this was attempted by incorporating the Convention's provisions into the *National Commission for Refugees, Migrants and Internally Displaced Persons (NCFRMI) Amendment Bill*. Subsequently, the government decided that the objective could be better achieved through a stand-alone piece of legislation. Therefore, on 5-7 May 2022 the FMHADMSD with the support of UNHCR organized a retreat with key government stakeholders as well as their national and international partners aimed to review the draft NCFRMI Amendment Bill (to expunge the provisions seeking to domesticate the Convention) and develop a zero draft of a standalone Bill for the protection of IDPs in Nigeria. In line with the country's engagement to consolidate the policy framework, the Ministry of

Humanitarian Affairs shared a formal request with UNHCR to support the inter-ministerial technical team on the drafting process of an executive bill domesticating the Kampala Convention. As a result, a national consultant joined the drafting team on 1st August 2022, with a plan to have the bill ready for stakeholder review before the end of the year.

In addition, it should be noted that the Nigeria Medium-Term Development Plan (MTDP) 2021-2025 also addresses the needs of IDPs, including through budgetary allocation for related projects. The Humanitarian/Development/Peace Nexus Plan developed by the FMHADMSD includes responses to areas hosting IDPs.¹⁰⁷

Burkina Faso has also been a state party to the Kampala Convention since 2012. The government (through the National Council for Emergency Relief and Rehabilitation, CONASUR) first launched a process to incorporate its provisions into domestic legislation with the support of UNDP in 2017; but it was in light of the deepening of the humanitarian crisis in the following years that a revision of the existing national legislation to strengthen the protection of IDPs became more urgent. In December 2020, the government requested the support of the humanitarian community on this matter. UNHCR and members of the Protection Cluster hence formed a working group to support the CONASUR in this process. In early 2021, a draft decree proposing the creation of an inter-ministerial group in charge of overseeing the domestication process, identifying its responsibilities and a related plan of action was submitted to the Minister of Women, National Solidarity, Family and Humanitarian Action (MFSNFAH). Interestingly, the committee's mandate was initially described as "*revising the Law 012/2014 on the prevention and Management of Risks, humanitarian crises and disasters*", given that such law did not include any reference to displacement.

106 - See: <https://www.refworld.org/docid/632af49b4.html>.

107 - From the response to the UNHCR-TTLP Survey on Law and Policy on Internal Displacement received by the Government of Nigeria.

In September 2021, two missions supporting national efforts to domesticate the Kampala Convention and outline relevant considerations and steps for law and national policy processes took place: a technical one by ECOWAS and a high-level visit by the IDP Protection Expert Group (IPEG), including the current and former Special Rapporteurs on the Human Rights of IDPs. In follow-up, the Government of Burkina Faso, the Protection Cluster and UNHCR jointly hosted a workshop in December 2021 with members of the relevant inter-ministerial committee and partners.¹⁰⁸ By the end of the workshop, the participants had agreed on a roadmap identifying the necessary next steps, as well as on the terms of reference for a national expert to come on board as a consultant to support the work of the inter-ministerial committee in 2022. Importantly, participants also agreed that considering what they had learned during the workshop, the proposed mandate of the Inter-Ministerial Committee would be too narrow, and that they should rather focus on the domestication of the Kampala Convention. A legal review of existing legislation will be conducted to clarify and confirm the approach to be followed. Although the whole process was delayed in 2022 due to changes in government, the government selected and hired a national consultant in October 2022.

Other relevant developments in this sub-region took place in Benin and Liberia. At the end of 2021, a governmental technical committee in **Benin** was discussing a draft bill domesticating the Kampala Convention; in addition, guidelines on planned relocation and displacement in contexts of disasters and the adverse effects of climate change were under development. In **Liberia**, a draft IDP law was

developed by the Liberian Refugee Repatriation and Resettlement Commission at the end of 2018 but since then, the process towards its adoption has stalled.

In the sub-region of East and Central Africa, **Kenya's 2012 Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act** was developed on the basis of the ICGLR Protocol.¹⁰⁹ The development of a **legislative framework on internal displacement in Kenya - the first one to be adopted in the continent** - was led by a Parliamentary Select Committee on IDPs established in 2010 and happened in parallel to the development of a national IDP policy in the country.¹¹⁰ The policy-making process was initiated following the country's largest displacement event in recent years, which was caused by the post-election violence of 2007/8, when an estimated 650,000 people fled their homes during two months of intense violence.¹¹¹ Prior to that time, displacement had been largely neglected and denied in the country. From the beginning of the process, members of the Protection Working Group on Internal Displacement - including civil society organisations, UN and key government agencies - significantly engaged with it in line with their institutional mandates, technical expertise and financial resources. They played an essential role in collecting and analysing information, facilitating discussions on the policy through consultation with IDPs and raising awareness of the process among stakeholders. They convened forums to build consensus on issues including important policy choices - for example, on whether to develop a framework specific to IDPs or to incorporate protection mechanisms into existing frameworks - and standards to be included in the policy.¹¹²

¹⁰⁸ - This workshop also received technical and financial support by the TTLP and it constituted the first pilot of the new UNHCR-TTLP training package on IDP law and policy, which was also translated in French for the occasion (see [workshop report](#)).

¹⁰⁹ - Kenya has yet to sign the Kampala Convention, ratification of which the country's Truth, Justice and Reconciliation Commission recommended in its final 2013 report. The process has been delayed by the fact that the country's new constitution in 2010 marked the passage from a dualist to a monist legal system, which made it necessary to adopt a law on the domestication of treaties. A Ratification Act was eventually adopted in December 2012, so the country has since been in a position to ratify the convention.

¹¹⁰ - Refugee Consortium of Kenya, *Behind the Scenes*, January 2013, pp.17-21.

¹¹¹ - IDMC, *Kenya: IDPs' significant needs remain as intercommunal violence increases*, 28 December 2012.

¹¹² - IDMC, *The Kampala Convention One year on: Progress and prospects*, December 2013, p. 20.

As a result, a comprehensive national policy on internal displacement was finalized and adopted by Cabinet in October 2012. However, this has never received parliamentary approval.

Kenya's 2012 IDP Act complemented the draft policy; it is a very comprehensive law, addressing all causes and all phases of displacement, from prevention and early warning through to durable solutions. It set up an inter-institutional National Consultative Coordination Committee on IDPs (NCCC) as a focal point, responsible for the coordination and oversight of the IDP response. Some actors raised concerns that the NCCC's responsibilities for prevention and preparedness could overlap with the mandate of other authorities, potentially leading to wasteful duplication of effort or tensions between institutions. In addition, the implementation of the IDP Act has been hindered by issues including a limited political will to deal with internal displacement and therefore allocate adequate resources, a lack of clarity in the allocation of responsibilities between the central and the county authorities, and a lack of common understanding on who constitutes an IDP in the country (a prevalent idea is that IDPs are only those forced to flee as a result of political violence, while displacement in Kenya is the result of multiple and often combined causes).¹¹³

Among ICGLR Member States, the pioneering role played by **Uganda** should also be highlighted. Uganda was the first country to ratify the Kampala Convention and, in 2004, it was among the first ones worldwide to develop a national IDP policy, in addition to taking several other actions to address the protracted IDP crisis concentrated in the country's north following the armed conflict. As a result, large-scale return and other settlement options were facilitated and the majority of IDP camps were dismantled. The Government also used its Peace Recovery and Development Plan as the vehicle for

fulfilling its responsibilities under the Policy, to foster conditions to sustain durable solutions for all IDPs in the north - a challenge primarily developmental in nature. The scope of 2004 *National Policy for IDPs* covers all causes of displacement and identifies the Office of the Prime Minister (Department of Disaster Preparedness and Refugees) as the lead agency with overall responsibility for dealing with IDPs. The policy established an Inter-Ministerial Policy Committee to coordinate all IDP-related activities among the central, district and sub county levels, accompanied by an inter-agency committee at the technical level also including UN and NGOs, as well as a Human Rights Promotion and Protection subcommittee. These structures were to be replicated at the district and sub county levels. An analysis of the IDP policy's implementation between 2004 and 2012 helped identify some of the challenges encountered in this area, including: a lack of clarity around institutional responsibilities for IDPs who have returned or resettled; limited resources to make functional the structures of governance for the IDP response at the district and sub county; a lack of acknowledgment of IDPs in urban areas, given the prevalent government focus on IDPs in camps.¹¹⁴ These points all constitute important reflections and lessons learnt for other countries.

A law-making process to domesticate the Kampala Convention has also taken place over the past few years in the **Central African Republic (CAR)**. Unfortunately, despite being well designed and implemented in a participatory and consultative manner, it encountered political obstacles impeding the final adoption of the law, which remains pending. Some of the key lessons learnt from the process in CAR included the importance for the process to be kept at a technical level while engaging with relevant political stakeholders, and of engaging with parliamentarians across different political parties early on to ensure their support.

¹¹³ - Huggins, Klopp, Magenyi et al., *The potentials of the Kenyan policy and legal framework for addressing internal displacement*, January 2014.

¹¹⁴ - Refugee Law Project, *Working Paper n. 23*, October 2012.

Even in the absence of an overarching framework on internal displacement, the government adopted in 2018 a *National Strategy on Durable Solutions for Internally Displaced Persons and Returning Refugees (2018-2021)*,¹¹⁵ building on the *National Recovery and Peacebuilding Plan* approved by the National Assembly on 26 February 2016. The strategy was elaborated by the government in collaboration with its international partners, particularly UNHCR and UNDP, and aimed to build the conditions to support people's preferred solution - whether return, local integration or settlement elsewhere. The document is still being applied, although one of the objectives of the CAR Solutions Support Platform to be officially established in November 2022 is to produce a revised national durable solutions strategy to better fit the current context.

As internal displacement due to armed conflict, violence, human rights violations, disaster and the adverse effects of climate change remains a significant challenge in a number of ICGLR Member States, many of which have not yet established a national framework on internal displacement, the issue of how the Great Lakes Pact and Protocols can be leveraged for effective protection and solutions responses in order to address the current challenges posed by displacement situations in the region should be further explored. Countries that do not have a dedicated framework on internal displacement in this region include **Burundi**, where nevertheless there have been recent efforts to update the *National Strategy on Socio-Economic Reintegration of Affected People in Burundi* adopted in 2017,¹¹⁶ and the Democratic Republic of Congo (DRC).

The Government of the **Democratic Republic of Congo** promulgated a law authorising the ratification of the Convention in July 2014 and the same year,

the Ministry of Solidarity and Humanitarian Action with the support of UNHCR developed a draft law on internal displacement¹¹⁷ based on a comprehensive legal review of existing legal and policy frameworks. The draft law was passed in September 2016 to the DRC's Law Commission and the Council of Ministers, but its adoption was impeded by an overcrowded legislative agenda and lack of political momentum. In the context of gradual closing of IDPs camps in North-Kivu, the provincial government adopted in 2016 a *Provincial Strategy on Durable Solutions for IDPs in North Kivu*; attempts were made to also develop a national durable solutions strategy, but the final draft was never endorsed. During a working visit to the country in 2016, the Special Rapporteur on the human rights of IDPs noted that the coordination architecture to respond to IDPs' protection and assistance needs had largely grown organically over the course of two decades. The result is a complex patchwork of actors and institutional frameworks, which remains too incomplete and scattered to address the complexity of displacement and return dynamics in an adequately coordinated and comprehensive manner. While acknowledging the important role played by line ministries such as the Ministry of Interior and Security and the Ministry of Social Affairs, Humanitarian Action and National Solidarity, and agencies such as the National Council for Refugees, he expressed concerns over the lack of a clear institutional set up to address internal displacement in its different dimensions. Therefore, he recommended that, in keeping with the ICGLR IDP Protocol, the Government continue working towards the adoption of a legislative framework on internal displacement, a policy and a plan of action for its implementation, with the support of the international community.¹¹⁸ Under the framework of the GP20 initiative, the Government of DRC, the Office of the Humanitarian Coordinator, UNDP and UNHCR hosted a conference in 2018 to put these issues back

115 - Available [here](#).

116 - Available [here](#).

117 - Available [here](#).

118 - Special Rapporteur's working visit report to DRC, 2016, on file with TTLP.



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on the agenda. It is hoped that DRC's deposit of the instrument of ratification of the Kampala Convention in February 2022, among other developments, may bring renewed momentum to this agenda.

Some of the ICGLR Member States are also members of the Intergovernmental Authority on Development (IGAD), which comprises Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda. **IGAD has also played a very active role on the issue of displacement due to different causes over recent years.**

IGAD's *Regional Migration Policy Framework*, its defining policy document in this area, has the promotion of the domestication and implementation of the Kampala Convention as one of the 12 strategic priority areas for IGAD. This includes support to member states policy development on internal displacement as well as implementation of actions towards the protection and assistance of IDPs.¹¹⁹ As the IGAD region is considered one of the most vulnerable to climate variability and change, IGAD Member States have recognized the need to develop a coordinated and protection-centred response to

¹¹⁹ - A number of other related documents are also relevant, such as the *IGAD Regional Strategy on Forced Displacement and Mixed Migration (2017-2022)* and the *Nairobi Declaration on Durable Solutions for Somali Refugees and Reintegration of Returnees in Somalia* and related action plan, adopted in 2017 in line with the New York Declaration for Refugees and Migrants and the Comprehensive Refugee Response Framework (CRRF). The commitments towards the Somali refugees were later broadened to cover other refugee and displaced groups in the region, including through the *Kampala Declaration on Jobs, Livelihoods and Self-resilience for Refugees, Returnees and Host Communities in IGAD region*.

disasters that allows people to move in order to mitigate the worst effects of natural hazards, including through the recent endorsement of a Free Movement Protocol. In addition to these developments in migration policy, IGAD members have identified the need to protect against future displacement through effective disaster risk reduction (DRR), climate change adaptation (CCA), and development policies and strategies. To this effect, the IGAD Secretariat and NRC commissioned a study analysing the extent to which the prevention of displacement, the protection of the displaced, and the facilitation of durable solutions have been integrated into existing national and regional DRR, CCA and development policies in the IGAD region. The study also provides important recommendations for each country on how such efforts can be strengthened.¹²⁰

In recent years, IGAD organized, jointly with the ICRC, seminars for IGAD Member States on the Kampala Convention in 2016 and 2017, to discuss their key obligations under the Convention, have them report on their status and share good practices, tools and resources to support the implementation of the Kampala Convention domestically. In 2019, IGAD and the GP20 initiative also partnered to convene an exchange on supporting resilience and durable solutions to internal displacement in the IGAD region.¹²¹ This exchange was an opportunity for states to discuss the link between having adequate normative frameworks on internal displacement in place and efforts towards the achievement of durable solutions for IDPs and identify recommendations on how some of the common challenges can be overcome.

The efforts of **Somalia**, which instituted a widely consultative and whole-of-government approach to internal displacement crossing 14 ministries and other institutions and also included IDPs in

decision-making processes (see country spotlight), as well as the participatory law-making process followed in **South Sudan** are often highlighted as examples of good practices.¹²² In the latter, the IDP Bill was still under review by the Ministry of Justice of South Sudan and was set to be presented to the Transitional National legislative Assembly (T-NLA) as of early 2022. To recreate political momentum and advance this agenda, the Government of South Sudan (through its Ministry of Humanitarian Affairs and Disaster Management, and the Commission of Refugee Affairs) in collaboration with UNHCR held on 20-22 April 2022 a roundtable for members of the T-NLA on the Kampala Convention domestication, promoting the finalisation and adoption of the IDP Bill, as well as the national draft *Durable Solutions Strategy*, which is also at the Cabinet level. The adoption and concrete implementation of these frameworks are essential for the implementation of Chapter 3 of the *Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS)*. The draft national durable solutions strategy was developed with the support of IGAD and UNHCR as part of efforts initiated by the Government of Sudan and South Sudan in 2020, when the two countries agreed on a roadmap outlining the next steps toward short, medium, and sustainable solutions for the seven million displaced persons including IDPs and refugees originating from and hosted by the two countries, as well as returnees. In parallel to these efforts, other important normative developments in **South Sudan** concern the adoption of a land policy, in draft form as of August 2022, as well as the constitution-making process that was also recently initiated. In **Sudan**, it is hoped that the current political and security situation will not hinder the previous process of revision of the 2009 IDP policy to bring more in line with international and regional standards, drawing among others on the ongoing work in support of durable solutions for

120 - Nyandiko, Freeman: *Disaster Risk Reduction, Climate Change Adaptation and Development Policies, and their Consideration of Disaster Displacement and Human Mobility in the IGAD Region*, 2020.

121 - See [event report](#).

122 - See [GP20 Compilation of National Practices to Prevent, Address and Find Durable Solutions to Internal Displacement](#), 2020.



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IDPs and returnees in the country, including through the development of a national strategy as mentioned above.

In **Ethiopia**, activities were conducted in 2019 (including three multi-stakeholder workshops) to promote the ratification and domestication of the Kampala Convention. At the time, a zero draft legislation was prepared by the government under the leadership of the Ministry of Peace with the technical support of UNHCR, which was also translated in Amharic. However, due to the significant events in the country since - also resulting in a dramatic increase in numbers of internally displaced persons - it has been essential to reinvigorate advocacy and technical assistance efforts towards domestication of the Convention.¹²³ The government deposited its instrument of ratification of the Kampala Convention with the AU Commission in August 2021. In 2022,

the government established an inter-ministerial taskforce under the Steering Committee on IDPs and Refugee Affairs, which - in collaboration with key national and international partners - is responsible for the design and rollout of a comprehensive IDP strategy, including the establishment of an effective response mechanism and the domestication of the Kampala Convention. A first workshop of the drafting committee in charge of developing the IDP law was conducted in October 2022. Some positive developments have also taken place at the sub-national level, particularly in the Somali Regional State with the recent adoption in May 2022 of its *Durable Solutions Strategy (2022-2025)*.¹²⁴

In **Southern Africa**, the Southern African Development Community (SADC)¹²⁵ has also taken several initiatives to promote the domestication and implementation of the Kampala Convention,

¹²³ - The National Human Rights Commission in Ethiopia has also played a role in recent years, increasingly facilitating discussions on this topic.

¹²⁴ - A process that benefited from the support of Switzerland.

¹²⁵ - Member states of SADC are Angola, Botswana, Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

though more limited compared to other sub-regional entities. In collaboration with the ICRC, it co-organized a sub-regional round table on this subject on 22-23 November 2017 in Malawi, encouraging peer-to-peer engagement and exchange of experiences and lessons learnt. In recent years, SADC has also been developing a *Regional Migration Policy Framework and Action Plan 2022 to 2030*, which was recently endorsed and not only addresses internal displacement due to all causes within its scope, but it dedicates a strategic objective to supporting the full implementation of the Kampala Convention.

At the country level, 8 out of 14 SADC states ratified the Kampala Convention and at least 4 of those have taken some steps to implement it. In the context of the protracted armed conflict affecting the country, **Angola** adopted specific norms on internal displacement at the beginning of the 2000s,¹²⁶ particularly focusing on durable solutions - more specifically the return and resettlement of IDPs, which was to be planned, managed and coordinated by the Provincial Governments through the sub-groups on Displaced Persons and Refugees. Most recently, **Mozambique** has figured as a noteworthy example in the sub-region with the adoption of a specific policy framework on internal displacement in September 2021, addressing displacement caused both by conflict and violence as well as disasters and the adverse effects of climate change (see country spotlight).

In recent years, the **Republic of Congo** has also made important progress towards the incorporation of the Kampala Convention in its domestic law to better address the protection of IDPs through the establishment of an adequate framework. The Ministry of Social Affairs and Humanitarian Action led a consultative process with UNHCR's support and prepared a draft law which was validated

by the Supreme Court and transmitted to the Government's General Secretariat. Four capacity-building workshops on internal displacement were organized in Brazzaville and Pointe-Noire, targeting actors involved in the legislative process with the aim to support the legislative process until the final adoption of the law at parliamentary level; two additional working sessions were organized specifically with selected relevant parliamentary committees, among other sensitization activities. **It now remains paramount to complete the process and take the necessary steps to adequately assist and protect IDPs in line with the new law.**

It should be noted that with a few exceptions, most countries in Southern Africa are affected by internal displacement primarily because of disasters and development projects, rather than armed conflict and violence. This is clearly reflected in the scope of legal and policy instruments that have been established to prevent the conditions leading to displacement, assist and support durable solutions for IDPs.

For example, the durable solutions framework for IDPs and flood-affected population adopted by the **Malawi** government in 2015 is the only solutions-focused instrument exclusively addressing disaster displacement worldwide. In **Zambia**, it is the Office of the Vice President through Disaster Management and Mitigation Unit (DMMU) that is mandated to deal with all issues relating to IDPs and has a structure that transcends from the community level all the way up to the Council of Ministers. In February 2013, the government organized a series of consultative meetings with stakeholders leading to the establishment of a Technical Committee mandated to develop: Guidelines on the Compensation and Resettlement of Internally Displaced Persons; a Cabinet Memorandum for approval of a Resettlement Policy; a Cabinet Memorandum on the domestication of the Kampala Convention and Guidelines on

¹²⁶ - See Decree Number 1/01, 5 January 2001, Norms on the Resettlement of Displaced Populations and Decree Nr. 79/02, 6 December, Implementation of Norms- Standard Operational Procedures.

the Compensation and Resettlement of Internally Displaced Persons. Progress on these frameworks continued at a national workshop organized by the government and the AU in Lusaka in July 2013, and on 21 October 2013 the Cabinet approved both the domestication of the Kampala Convention and the *Guidelines on the Compensation and Resettlement of the Internally Displaced Persons*. Zambia's *National Resettlement Policy* was eventually also adopted in June 2015. In its preamble, the policy also acknowledges that the government had been implementing a land resettlement programme for over 24 years, focusing mainly on land resettlement for agricultural purposes, without a comprehensive policy and legal framework in place.

This caused several challenges, including lack of a coordination mechanism at high level of government in the implementation of the programme, land disputes as well as low levels of infrastructure development and service provision in the resettlement schemes. Notwithstanding their titles, both instruments address all phases of displacement, from prevention through to durable solutions.

In **North Africa**, discussions around the potential development of a national framework on internal displacement have also taken place in **Libya** in recent years. In 2018, during her official visit to the country, the Special Rapporteur on the human rights of IDPs noted that the government coordination system did not effectively meet the needs of IDPs. While she commended the political will to protect and assist these persons through the establishment of a Ministry of State for Displaced Persons' Affairs,¹²⁷ as well as a Higher Committee on Displaced Affairs and other council-level committees across parts of the country, she expressed the need for improved coordination mechanisms within the Government of Libya in order to have clearer objectives and greater clarity about

the roles of key institutions in responding to internal displacement, as well as about their partnerships with both national and international partners. The expert therefore recommended the development of a comprehensive road map on internal displacement in line with international and regional standards (i.e. the Kampala Convention, which Libya has not ratified yet).¹²⁸ Since then, the signing of the cease-fire agreement in October 2020 and the subsequent formation of the Government of National Unity in March 2021 laid the foundation for increased stability across Libya. This has resulted in an increasing number of displaced persons returning to their places of origin over the past two years, which has however slowed down due to the still fragile political and security landscape, and the fact that many IDPs, especially those living in the urban centres such as Tripoli, Benghazi or Misrata, are unwilling or unable to return to their places of origin due to damages to public infrastructure and housing, and the contamination with explosive remnants of war.¹²⁹ Nevertheless, since 2020, the Government of Libya has been working in collaboration with the UN to develop a draft *National Durable Solutions Strategy*. The Strategy was finalized in July 2022 and is pending formal adoption by the authorities.

At the same time, the government (through its Ministry of Justice) collaborated with the International Centre for Migration Policy Development to carry out a comprehensive analysis of existing legal and policy frameworks relating to the protection of IDPs.¹³⁰ Some of the main provisions it identified included the *Presidential Council Resolution No. 597 of 2019*, an instrument of great importance as it concerns the allocation of financial resources to municipalities to provide basic services and aid to IDPs, and *Transitional Justice Law No. (29) of 2013*, which refers to mechanisms for accountability and compensation for victims of human rights violations, including IDPs.

127 - Now the Ministry of State for Internal Displacement and Human Rights.

128- [A/HRC/38/39/ADD.2](#).

129 - GPC, *Libya Protection Analytical Update*, April 2022.

130 - Its final analysis report was not available as of August 2022.

In 2013, the General National Congress also issued *Resolution No. (123)*, which aimed at laying out a road map for disputes between some Libyan cities and considered the treatment of IDPs' cases as "urgent cases" before the Libyan judiciary, thus allowing IDPs to have legal priority. Perhaps most importantly, *Resolution No. (107) of 2013* included legal provisions binding the government to return the displaced from the sub-regions of the mountain to their places of origin and take the necessary arrangements and procedures for reparation and reconstruction of those areas. Other interesting provisions applicable to IDPs concerned their right to vote and to run for office.¹³¹ The government's analysis of existing legal and policy frameworks relating to the protection of IDPs also identified several important rulings and *fatwas* on IDPs; for example, in 2020, the Supreme Court issued a verdict stating the obligation of the State to compensate IDPs according to national legislation. Article 31 of the *Supreme Court Reorganization*

Law explicitly states that the principles contained in its ruling shall be binding on all authorities in the country, which may give it a legislative power.¹³²

Since this analysis was carried out, the Libyan government has adopted a set of additional decrees and decisions to remove legal and administrative obstacles preventing displaced persons from accessing services or enjoying their rights in areas of displacement or resettlement (for instance allowing IDPs to get their salaries regardless of where they are),¹³³ as well as to ensure the provision of humanitarian assistance to IDPs.¹³⁴ The government has also established several funds relevant for IDPs, including to provide compensation for lost properties and to accelerate the reconstruction of areas affected by the conflict to allow for the return and sustainable reintegration of IDPs. However, some of these funds have not yet been allocated, which has left many IDPs primarily dependent on humanitarian assistance.

Country in focus: Mali

Overview of the Main Laws and Policies on Internal Displacement:

Specific to internal displacement:	Including internal displacement:
<p>National:</p> <ul style="list-style-type: none"> - <i>Stratégie des solutions durables pour les personnes déplacées, retournées, rapatriées et les groupes vulnérables locaux (2020-2025) (et Plan d'Actions) (2021)</i> - <i>Stratégie Nationale de Gestion des Personnes Déplacées Internes et des Rapatriés (2015-2017) (et Plan d'Actions) (2015)</i> 	<p>National:</p> <ul style="list-style-type: none"> - <i>Accord pour la Paix et la Réconciliation au Mali issu du processus d'Alger (2015)</i>

¹³¹ - *Resolution No. 19 of 2012* regarding the adoption of the voter registration regulation included provisions to the benefit of IDPs. For example, the decision obliges the Election Commission, in coordination with the competent authorities, to identify the areas from which their residents have moved temporarily to live in other Libyan regions and the areas in which they resided.

¹³² - See article 31 of the *Reorganisation Law of the Supreme Court*.

¹³³ - See for example Prime Minister's Office (PMO), Instructions to release IDPs' salaries (18 August 2021, Doc. 9575); PMO, Decision to allocate funds under the Ministry of Social Affairs for the salaries of IDPs coming from the east for December 2021 (19 December 2021, Doc. 685-2021).

¹³⁴ - PMO, *Approval for LIBAID to distribute aid in Tawergha*, Doc. 5656, 27 February 2022.

Context

The security situation in the Central Sahel continues to rapidly and significantly deteriorate, combining protracted situations and new emergencies. Mali remains the epicentre of the protracted crisis in the Central Sahel. The human rights situation in the country has deteriorated in recent years, with a 62 percent increase in protection incidents in 2021 compared to 2020.¹³⁵ Intercommunal violence and armed conflict between violent extremist groups and government forces as well as attacks against civilians¹³⁶ are the primary drivers of internal displacement in the country, particularly in its north and central regions. Conflict zones are increasingly militarised as demonstrated by the use of improvised explosive devices (IEDs) leading to restrictions on movements and casualties.¹³⁷ Since 2017, Mali has experienced a significant increase in incidents caused by IEDs, including improvised mines, in the centre of the country. The Land Mine Monitor recorded 242 improvised mine casualties in Mali in 2020.¹³⁸

Civilian populations are severely impacted and exposed to indiscriminate attacks, including on schools and health facilities, summary executions, widespread use of rape and assaults, with serious implications on mental health and psychosocial well-being. In 2021, such violence triggered at least 249,000 new displacements.¹³⁹ Human rights violations linked to descent-based slavery also cause displacement particularly in the west of the country.

In addition, floods related to seasonal rains and prolonged periods of drought have forced yet more people to flee their homes.¹⁴⁰ As of 31 July 2022, over 390,000 people were estimated to be internally displaced within the country.¹⁴¹

National Framework on Internal Displacement

Faced with these challenges, Mali has marked its commitment to the rights of the IDPs by signing the Kampala Convention in 2009 and depositing its instrument of ratification with the African Union in November 2012. In 2015, the Government of Mali requested the support of its technical partners, in particular UNHCR, to support the incorporation of the Kampala Convention into its national legislation. For this to happen, the *Ministère de la Solidarité et de l'Action Humanitaire* created the "Technical Committee on the Domestication of the Kampala Convention in Mali" in April 2016.¹⁴² The committee was responsible for developing and implementing an action plan for the domestication of the Convention.

To support this process, UNHCR in collaboration with the GPC Task Team on Law and Policy, NRC and IDMC, conducted in 2016 a study on the normative and institutional frameworks relating to the protection of IDPs in Mali.

¹³⁵ - OCHA, *Mali: Humanitarian Response Plan 2022*, February 2022, p. 14.

¹³⁶ - See for instance: MSF, *Central Mali: no choice but to flee*, 2020; Amnesty International, *Mali: New eye-witness testimony describes killings and mass displacement amid surge in violence in Menaka*, 16 June 2022; Danish Refugee Council, *Mali: Rapport d'Évaluation Rapide de Protection à Djenné à l'endroit des PDI de Senossa*, 22 July 2022; International Rescue Committee, *Évaluation Rapide de Protection (ERP) Village de Wourowel et Campement de Djoudjou Daka, Commune de Youwarou, cercle de Youwarou, Région de Mopti*, 27 July 2022.

¹³⁷ - The percentage of respondents stating that the cause of movement restrictions was linked to explosive devices/mines continuously increased in Burkina Faso during the second quarter of 2021, from 4.8% in April 2021 to 9.3% in June 2021 (source: *Projet 21 | HumanitarianResponse*).

¹³⁸ - International Campaign to Ban Landmines, *Landmine Monitor 2021*, November 2021.

¹³⁹ - IDMC, *Mali Country Profile*, 2022.

¹⁴⁰ - Estimates are not available due to the lack of systematic monitoring of disaster displacement and challenges in monitoring displacement associated with slow-onset disasters.

¹⁴¹ - IOM, *Mali: Rapport sur les mouvements de populations*, July 2022.

¹⁴² - See Decision N° 2016-0109 / MSAHRN-SG. The committee is chaired by the *Ministre de la Solidarité et de l'Action Humanitaire*, and the Vice-Presidency is provided by the *Ministère de la Justice*. It includes representatives of the *Ministère de l'Administration du Territoire*, *Ministère des Maliens de l'Extérieur*, *Ministère des Affaires Étrangères*, *Ministère de la Sécurité*, representatives of the Committees of the National Assembly, representatives of civil society, of the National Human Rights Commission, of the AU Mission for the Sahel in Mali, representatives of UNHCR, UNDP, the Malian Red Cross and a representative of the ICRC as an observer.

The final report of the study, published in April 2017,¹⁴³ recommended among other measures the establishment of a comprehensive national legislation to address internal displacement in Mali, in line with international and regional standards. Consequently, a national consultant was recruited in 2018 to support the committee in the development of the draft national bill. After several in-depth consultations and working sessions, the bill was endorsed at a validation workshop held in August 2019, which was attended by a wide range of actors in Mali, including all relevant ministries.

The draft national law was scheduled to be submitted to the National Assembly in 2020, but its presentation was delayed due to the Covid-19 pandemic, the elections held in March that year and a contentious provision on death penalty. Through advocacy and under the leadership of the authorities, the contentious provision has been amended. The

revised draft bill has been adopted at technical level early 2022 and has been submitted to the Council of Ministers for further steps.¹⁴⁴

The fact that the new transitional government indicated at the presentation of its Plan of Action 2021-2022 that the return of displaced people was a priority of the transition¹⁴⁵ creates an opportunity for the adoption of a much-needed IDP law in line with the country's regional and international commitments. In 2015 Mali had adopted a National Strategy for the Management of Internally Displaced Persons and Returnees, which was valid for the period 2015-2017, which was revised and updated for the period 2020-2025; a legal instrument domesticating the Kampala Convention would now provide an essential framing to any durable solution strategy and initiatives that the government is interested in developing in collaboration with its humanitarian, human rights and development partners to respond to the current displacement situation in the country.

143 - See Global Protection Cluster, *Examen du cadre normatif et institutionnel malien relatif à la protection des personnes déplacées internes du Mali*, 2017.

144 - The technical adoption does not mean that the document is final. Necessary next steps include an examination of the document by the Council of Ministers, which might result into additional modifications of the text, and submission to the Parliament for discussions and adoption.

145 - See the *Presentation of the Government Plan of Action 2021-2022* by Mali's Prime Minister, Mr. Choguel Kokalla Maïga.



© IOM/Rikka Tupaz, Somalia: IDPs in Galkayo

Country in focus: FEDERAL REPUBLIC OF SOMALIA

Overview of the Main Laws and Policies on Internal Displacement:

Specific to internal displacement:	Including internal displacement:
<p>National:</p> <ul style="list-style-type: none"> - <i>National Durable Solutions Strategy (2020-2024)</i> (2021) - <i>Somalia National Policy on Refugee-Returnees and Internally Displaced Persons</i> (2019) 	<p>National:</p> <ul style="list-style-type: none"> - <i>National Action Plan to End Statelessness in Somalia</i> (2021-2024) - <i>National Eviction Guidelines</i> (2019) - <i>Interim Protocol on Land Distribution for Housing to Eligible Refugee-Returnees and Internally Displaced Persons</i> (2019) - <i>National Development Plan 2020 to 2024</i> (2019) - <i>Somalia Social Protection Policy</i> (2019) - <i>Somalia Recovery and Resilience Framework</i> (2018) - <i>National Disaster Management Policy</i> (2017)
<p>Sub-national:</p> <ul style="list-style-type: none"> - <i>Benadir Regional Administration Durable Solutions Strategy (2020-2024)</i> (2020) - <i>Benadir Regional Administration Policy for Internally Displaced Persons and Returnees in Mogadishu</i> (2019) - <i>Puntland Local Integration Strategy (2018-2020)</i> (2018) - <i>Puntland Policy Guidelines on Displacement</i> (2012) 	

Context

For decades now, Somalis have been forced to flee because of armed conflict, violence and human rights violations involving Al-Shabaab and other international and national armed groups. Tensions and violence increased in the context of the national elections. It is estimated that there were almost three million IDPs in the country due to conflict and violence at the end of 2021, mostly living in urban centres. In addition, many Somalis also face disasters including recurrent droughts, floods and severe storms. In 2021 alone, over 271,300 people were internally displaced as a result of disasters.¹⁴⁶ Triggers of displacement in many parts of Somalia overlap and

are interlinked; this combination of factors often leads to multiple displacements and to people being caught in situations of protracted displacement.

National Framework on Internal Displacement

The Federal Government of Somalia had long considered the development of a policy framework on internal displacement in line with international and regional standards. In parallel to the completion of the process of ratification of the Kampala Convention - whose instrument of ratification

146 - IDMC, *GRID 2022*, p. 27.

was deposited with the AU Commission on 6 March 2020,¹⁴⁷ the government stepped up its efforts to develop a specific policy in 2019 with the establishment of a technical advisory team, which included government officials and international actors supported by the International Development Law Organization (IDLO). The policy-making process benefitted from broad consultations with a wide range of relevant stakeholders, and was informed by extensive data and evidence, including various profiling exercises carried out across the country.¹⁴⁸ Adopted by the Council of Ministers in November 2019, the *National Policy on Refugee-Returnees and Internally Displaced Persons* is a very comprehensive instrument, clarifying the institutional architecture for the response and addressing challenges particularly relevant to Somalia, such as forced evictions, secondary displacements and internal displacement of pastoralists. These issues are reflected in the IDP definition itself included in the policy, which tailors the Guiding Principles' definition to the local context. The document also emphasises that people forced to flee can qualify as IDPs regardless of whether they stay in identified IDP sites or live in urban areas together with non-displaced communities or host families, irrespective of the cause and duration of their displacement, as well as their clan and area of origin.

In November 2019, the Council of Ministers of the Federal Government passed two additional and complementary policy and regulatory frameworks, namely the *National Eviction Guidelines*¹⁴⁹ and *Interim Protocol on Land Distribution for Eligible Refugee-returnees and IDPs*, to ensure that any evictions are carried out in a planned and legal way that protects rights including by providing alternative land for resettlement and other options.¹⁵⁰

At local level, in 2020-21 mayors in Bossaso, Garowe, Galkayo, Dhusamareb, Abudwak and Adaado called for and agreed to eviction moratoria in response to the COVID-19 pandemic. In Baidoa, the authorities issued a formal order to suspend forced evictions in April 2020 that was subsequently renewed.

These moratoria, combined with community monitoring and sensitisation, have contributed to a significant reduction in evictions; it is hoped that these efforts will be supported by similar decisions at the federal level. The importance of strengthening security of tenure and reducing forced evictions of displaced communities is also explicitly mentioned as a key priority in both the *National Durable Solutions Strategy (2020-2024)* and the latest *National Development Plan*. In January 2022, the Parliament of the South West State of Somalia adopted a *Land Law*,¹⁵¹ whose adoption represents a step forward for the guarantee of the security of tenure in that state. The adoption of all these instruments represents an opportunity to build upon, towards the establishment of a coherent legal framework against forced eviction throughout the republic. Harmonisation of legislation between federal and state levels is essential, as it contributes to addressing potential gaps and issues that may emerge, as well as promoting a common understanding of key issues and efficient use of resources.

To discharge its legal obligations in line with the Kampala Convention, the Federal Government developed in 2020 a draft IDP Act to complete the process of domestication of the Convention through the adoption of a law complementing the existing policy frameworks, with the support of UNHCR including through the technical assistance of the

147 - Somali President Mohamed Abdullahi Mohamed signed the Kampala Convention on 26 November 2019, after it was passed with a near-unanimous vote by parliament.

148 - See GP20, *Somalia. Data and Analysis to Inform Collaborative Approaches to Finding Durable Solutions*, 2020.

149 - Their development was also informed by the evidence of the profiling exercises, complemented by the information collected through the Eviction Tracker operated by NRC, UN-Habitat and the Protection Cluster since 2015.

150 - See Federal Government of Somalia, *Submission to the UN Secretary General's High-Level Panel on Internal Displacement*, 2020.

151 - See [press release](#).

former Special Rapporteur on the human rights of IDPs. As part of this process, extensive consultations were conducted with relevant stakeholders including members of the federal and local governments, the international community and groups of IDPs. A validation workshop took place in November 2020 under the auspices of the Deputy Prime Minister. Though the process has suffered delays linked to the COVID-19 pandemic and the national elections, the draft IDP Act was reviewed and endorsed by the Council of Ministers, and as of June 2022 the Ministry of Interior was waiting for a suitable sitting of the new parliament to commence the endorsement process by presenting the draft Act to the Lower House.

It is worth noting that different authorities at the sub-national level, which play an important role in the response to internal displacement, have also pushed the agenda through the adoption of various normative instruments. For example, authorities in **Puntland** adopted the *Puntland Policy Guidelines on Displacement* in 2012, complemented by the *Puntland Local Integration Strategy (2018-2020)* in 2018.¹⁵² In 2013-14, significant efforts were also made towards the development of a policy framework on internal displacement in **Somaliland**, though the draft was never formally adopted. More recently, in January 2019, the **Banadir Regional Administration** and the Municipality of Mogadishu adopted a *Policy for IDPs and Returnees in Mogadishu*, which facilitates IDPs' access to basic services as well as community policing and judicial procedures, and it is particularly valuable considering the important number of IDPs who found refuge in the capital and the characteristics of this urban population.

While key challenges still exist, Somalia has therefore adopted an impressive array of new policies that the government has committed to translating into tangible improvements for the rights of IDPs, including their right to a durable solution. Since 2016, under the umbrella of the Somalia Durable Solutions Initiative (DSI), the country's efforts to create an enabling policy and institutional environment have in fact significantly focused on the promotion of durable solutions for IDPs and returnees. This has become a priority for all levels of government, in recognition of the fact that durable solutions cannot be achieved in isolation. This was reflected in the creation of an institutional coordination architecture that goes beyond humanitarian coordination, particularly through the establishment of a Durable Solutions Unit within the Ministry of Planning, Investment and Economic Development, as well as of a National Durable Solutions Secretariat representing all relevant line ministries and of the Somali Development and Reconstruction Facility. In addition, durable solutions for IDPs and returnees were included in several (cross-)sectoral policies, including national and local development plans and investments.¹⁵³ Another illustration of the importance given by the Somali Government to the achievement of durable solutions is the adoption of a *National Durable Solutions Strategy 2021-2024*, which was adopted in March 2021 to support the operationalisation of the national policy framework on internal displacement. Although key challenges that need to be addressed remain, strong advances on building the architecture and cross-government approaches to sustain durable solutions have been made and many positive practices that could potentially be replicated by other countries are emerging.

¹⁵² - The *Puntland Policy Guidelines on Displacement* in 2012, complemented by the *Puntland Local Integration Strategy (2018-2020)* in 2018.

¹⁵³ - See for example, *National Durable Solutions Strategy (2020-2024)* (2021) and the *Banadir Regional Administration Durable Solutions Strategy (2020-2024)* (2020).



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Country in focus: **MOZAMBIQUE**



Overview of the Main Laws and Policies on Internal Displacement:

Specific to internal displacement:	Including internal displacement:
<p>National:</p> <ul style="list-style-type: none"> - <i>Policy and Strategy for Internal Displacement Management (Resolution 41/2021) (2021)</i> 	<p>National:</p> <ul style="list-style-type: none"> - <i>Plan for the Reconstruction of areas affected by the terrorism in Cabo Delgado (2021-24) (2022)</i> - <i>Northern Mozambique Resilience and Integrated Development Program (2022)</i> - <i>Law on the Reduction and management of the Risk of Disasters (Law 10/2020 of August 24) (2020)</i> - <i>Disaster Risk Reduction Master Plan 2017-2030 (2017)</i> - <i>Decree on the Regulations for the Resettlement Process Resulting from Economic Activities (Decree 31/2012 of 8 August) (2012)</i> - <i>General Peace Agreement for Mozambique (1992)</i>

Context

Mozambique has been affected by internal displacement due to multiple causes, primarily related to climate-related disasters and armed conflict. The internal conflict ravaging Cabo Delgado province in north-eastern Mozambique has seriously impacted the lives of people. The violent insurgency, which began in October 2017, has led to at least 1,100 civilian deaths and displaced nearly 946,000 people as of June 2022, mainly women and children.¹⁵⁴ Most of them have fled to more stable areas of Cabo Delgado, though an increasing number of people are seeking safety in neighbouring Nampula, Niassa and Zambezia provinces. Over 730,000 persons were also affected by Cyclone Gombe, which hit the coastal area of Nampula and Zambezia provinces on 11 March 2022. At the height of the evacuations and displacement stage, some 23,000 persons were being hosted in 52 transit centres.¹⁵⁵ Furthermore, some 90,000 people displaced by previous cyclones are still living in inadequate conditions in over 70 temporary sites across six provinces. This situation exacerbates IDPs' vulnerability and risk exposure during the rainy season.¹⁵⁶

National Framework on Internal Displacement

Mozambique signed the Kampala Convention in 2010 and eventually deposited its instrument of ratification with the AU Commission in January 2020. In recent years, the government has shown interest in undertaking the legislative and policy efforts required to bring its national framework in line with the standards set out by the African Union's

instrument and more effectively respond to the internal displacement crises that the country is facing. This commitment was promoted through several initiatives, with key government representatives participating in past courses on internal displacement held at the International Institute of Humanitarian Law in Sanremo, Italy ("Sanremo courses"),¹⁵⁷ the AU-UNHCR Livingstone Syllabus, a UNHCR-led training of trainers on IDP law and policy in Southern Africa as well as an ICRC-organized roundtable on this topic with SADC Member States. Technical partners of the government also organised awareness raising activities at national level with key government counterparts as well as relevant parliamentary commissions.

In June 2020, the government (through its National Institute for Disaster Management and Risk Reduction, Portuguese acronym: *INGD*) engaged in a discussion with NRC¹⁵⁸ and Oxfam South Africa on how disaster displacement could be prevented, prepared for and addressed most effectively in light of the country's existing frameworks relating to disasters. Mozambique had developed a *National Master Plan for Disaster Risk Management (2006-2014)*, which was updated for the period 2017-2030,¹⁵⁹ and enacted a Disaster Risk Reduction and Management Law in 2020.¹⁶⁰ Given the lack of references to disaster displacement therein, the government decided to develop complementary guidelines in line with the Sendai Framework for Disaster Risk Reduction 2015-2030, particularly its targets to reduce the number of people affected by disasters and to increase the number of national and local DRR strategies developed in this area.

¹⁵⁴ - IOM Mozambique, *DTM- Baseline Assessment Round 16*, June 2022.

¹⁵⁵ - OCHA Mozambique, *Tropical Cyclone Gombe Flash Update No. 5*, 22 March 2022.

¹⁵⁶ - UNHCR, *Cabo Delgado External Update*, May 2022.

¹⁵⁷ - Organized by the Sanremo International Institute of Humanitarian Law in collaboration with the Special Rapporteur on the human rights of IDPs and UNHCR.

¹⁵⁸ - This support has been provided under the framework of a global project called "*Reducing Disaster Displacement Risk, Supporting Resilience and Protecting Disaster Displaced People – Implementation of the Words into Action Guide on Disaster Displacement*" funded by Germany.

¹⁵⁹ - See: Mozambique, *Disaster Risk Reduction Master Plan 2017-2030* (2017).

¹⁶⁰ - See: *Law on the Reduction and management of the Risk of Disasters (Law 10/2020 of August 24)*, 2020.

This eventually led to the development of a national Policy and Strategy for Internal Displacement Management (PSIDM), adopted by the Council of Ministers adopted in its Resolution 42/2021. The policy aims at preventing and reducing disaster displacement risks, strengthening resilience, and addressing the protection needs of people who are already displaced. The government saw this as an opportunity to make progress on the domestication of the Kampala Convention, and throughout the process also received technical assistance from IOM and UNHCR. The PSIDM explicitly addresses all causes of displacement (disasters, armed conflict, generalized violence, and human rights violations) and all phases of the response (prevention/preparedness, assistance during displacement and durable solutions).

Following the adoption of the PSIDM, a three-year *Action Plan (2022-2025)* has entered into force for the dissemination and operationalization of the Policy/Strategy both at national and local level. Among the main activities planned, a *Training Manual* on the Policy/Strategy and an e-learning platform will be developed and made available across 11 provinces of Mozambique. Both instruments will represent the main capacity-building material for DRR policymakers and practitioners, while disaster displacement management training activities will be carried out to enhance the capacity of local governments and NGOs in managing risks and emergencies and in addressing challenges of human mobility in the context of disasters and climate change. Furthermore, three regional projects on durable solutions will be piloted and a research study will be carried out with a focus on disaster displacement dynamics – particularly in the context of slow-onset events such as drought displacement in Southern Mozambique. The Plan of Reconstruction of Areas Affected by the Terrorism in Cabo Delgado (2021-2024) and the *Northern Mozambique Resilience and Integrated Development Program*, adopted by the government in June 2022, are also to some extent aligned to the IDP policy and

address issues relating to internal displacement. For example, the latter dedicates a strategic objective to the strengthening social cohesion, with an emphasis on displaced persons and host communities.

The adoption of the national *Policy and Strategy for Internal Displacement Management* represents a very important step towards the effective domestication of the Kampala Convention by the Government of Mozambique. However, additional efforts at the legislative level remain necessary to complete the process. UNHCR in partnership with other humanitarian agencies and development actors is currently finalising a comprehensive legal analysis of the national legislation relating to IDPs' protection in collaboration with the GPC Task Team on Law and Policy. This will be a key resource in terms of available opportunities to strengthen IDP protection through additional legal and policy reform. For example, while the government also invested significantly in legislative and policy acts regulating relocation processes in the context of displacement due to development-related projects (see Decree no. 31/2012, adopting the Regulation on the Relocation Process resulting from Economic Activities), no similar guarantees exist for relocations in the context of disasters or armed conflict. Acts of arbitrary displacement are not prohibited nor criminalized in the current legislation; although Mozambique did not ratify the Rome Statute, it would still need to adopt dedicated legal provisions to ensure acts of arbitrary displacement amounting to war crimes, crimes against humanity or genocide are investigated and prosecuted in accordance with the Kampala Convention and other relevant provisions of international criminal, humanitarian and human rights law. Finally, while the inclusion of internal displacement issues into a variety of legal and policy frameworks is testimony to the attention that the phenomenon is receiving by the government, their effective implementation will require harmonisation and coordination of efforts among different authorities responsible for specific interventions aimed to prevent, protect and assist IDPs within and beyond Cabo Delgado.

Americas

Context:

Significant internal displacement in the Americas has been the result of armed conflicts, human rights violations and generalized violence. The northern countries of Central America and Mexico have been particularly affected by criminal violence, mostly related to drug trafficking and gang activity exacerbated by underlying factors such as poverty, inequality and the COVID-19 pandemic. Over 7 million people were estimated to be internally displaced by the end of 2021 as a result of conflict and violence,¹⁶¹ most of them in Colombia.¹⁶² There, five years into the implementation of the 2016 peace agreement, people continue to be forced to flee - more than 123,000 people in 2021. Disasters such as floods, landslides, storms and earthquakes also regularly affect countries in the region, causing mass displacements. In 2021 alone, nearly 1.7 million new displacements associated with disasters and the adverse effects of climate change were recorded.¹⁶³

A Strong Regional Support for Law and Policy on Internal Displacement

Under the umbrella of the Organisation of American States (OAS), the Inter-American Commission on Human Rights (IACHR)¹⁶⁴ and the Inter-American Court of Human Rights (IACtHR)¹⁶⁵ have played an essential role in monitoring, promoting and protecting the rights of internally displaced persons at the regional level, including by promoting the establishment of national legal and policy frameworks on internal displacement. The IACHR for example published practical “Guidelines for the formulation of public policies on internal displacement.”¹⁶⁶ The Commission also established a Rapporteur mandate on Internally Displaced Persons in 1996, which was subsumed under the mandate on the Rights of Migrants in 2012 while continuing to play a key role on IDPs’ rights.

¹⁶¹ - UNHCR, *Global Trends Report 2021* (see IDP figures for Colombia: 6,766,002; Honduras: 247,090; El Salvador 71,500).

¹⁶² - The National Victims Registry of Colombia contains the historical accumulated figure of the number of victims of displacement which continues to increase, given that victims continue to be registered in the country. Thus, the total number of persons recognized as victims of displacement (more than 8,2 million), includes the number of IDPs who are subject to attention and/or reparation, i.e. those who meet the requirements to access the measures of attention and reparation established in Colombian Law 1448 (6,7 million). The number of victims of displacement who are deceased, direct victims of forced disappearance and homicide, and other victims who, for various reasons, cannot effectively access these measures, are identified as not being subject to attention or reparation and therefore not included in the figure of 6,7 million. The figure is constantly updated, considering that by legal definition, victims have up to two years to make their declaration and be included in the registry system. Cut off date: 31 December 2021.

¹⁶³ - IDMC, *GRID 2022*, p. 73-75.

¹⁶⁴ - The IACHR has intervened in several countries in favour of IDPs’ rights including through country visits (see *Preliminary Observations on the IACHR Visit to Mexico*, October 2015), public statements (see *Honduras: UN and IACHR Experts Urge Immediate Adoption of Law to Protect Internally Displaced People*) and relevant guidance (see *Internal Displacement in the Northern Triangle of Central America: Public Policy Guidelines, 2018*).

¹⁶⁵ - The first decision ruled by IACtHR about internal displacement was the *Masacre Plan de Sánchez Vs. Guatemala* (2004). Since then, the court has produced several decisions in which the IACtHR has signalled that displacement is violating article 22 of the American Convention on Human Rights, as a continuing violation as well as multiple violations of human rights (e.g. Art. 17 on family unity or Art. 21 on property). The Court has also insisted on the particular situation of vulnerability faced by IDPs, which justifies preferential treatment from the State. For more information, see: Corte IDH, *Cuadernillo de Jurisprudencia de la Corte Interamericana de Derechos Humanos No. 3: Personas en situación de desplazamiento* / IACtHR- GIZ. 2020.

¹⁶⁶ - <https://www.oas.org/en/iachr/reports/pdfs/Guide-InternalDisplacement.pdf>.

In line with the 2016 New York Declaration on Refugees and Migrants and its Comprehensive Refugee Response Framework (CRRF), States in the region have been developing a regional application of the CRRF, known as the Comprehensive Regional Protection and Solutions Framework (MIRPS) for the Americas. Under the MIRPS, a Working Group on Internal Displacement was also established in 2020 with the support of the OAS and UNHCR. The Group focused on addressing internal displacement, acting as a space to strengthen capacities and develop legal and institutional frameworks that allow them to respond to internal displacement in their countries. The group consists of El Salvador, Honduras and Mexico, with the participation of Costa Rica as an observer country. Since its creation, the Group has been supported by a panel of international experts on internal displacement. The Group continued its work during the MIRPS Chairmanship held by the Government of Guatemala in 2021. During its second year, and with Mexico as the lead country, the Group decided to follow up on the needs and issues of concern identified in the recommendations presented in 2020, with consultations focusing on: normative frameworks for addressing internal displacement; a harmonized approach to the use of statistics; prevention of underlying causes of displacement; and community-based and differentiated approaches to generating solutions.¹⁶⁷ In recent years, these issues have also been the focus of a number of additional capacity-building and capacity-sharing activities among States and their partners such as the Sanremo courses on internal displacement (in Spanish language for the first time in 2020) or the GP20 Regional Exchange on Preventing and Addressing Internal Displacement in the Americas.¹⁶⁸

In 2022, the Government of Honduras acting as Chair of MIRPS convened a series of regional consultations on the root causes of displacement in Central America and Mexico, which featured for the first time a dialogue on climate change and disasters and its impact on displaced communities, vulnerable communities at high risk of forced displacement in the sub-region.

National Legal and Policy Developments

So far, **only three countries in the region have adopted instruments specifically dedicated to internal displacement at the national level: Colombia**, which was one of the first countries in the world to acknowledge the phenomenon of internal displacement and to adopt a specific IDP law in 1997 (even predating the Guiding Principles), therefore developing over the past decades one of the most significant experiences worldwide in addressing the situation of IDPs despite the remaining challenges; **Peru**, that established its legal framework on internal displacement in 2004;¹⁶⁹ and most recently **El Salvador**, which adopted an IDP law in line with international standards in January 2020.¹⁷⁰ At the sub-national level, four States in Mexico have already decided to develop and adopt laws to prevent and address internal displacement at the state level: **Chiapas** in 2012, **Guerrero** in 2014, **Sinaloa** in 2020 and **Zacatecas** in 2022. As of August 2022, other three States were developing their own draft IDP laws. Nevertheless, the country still lacks an overall national legal framework (see country spotlight for more information).

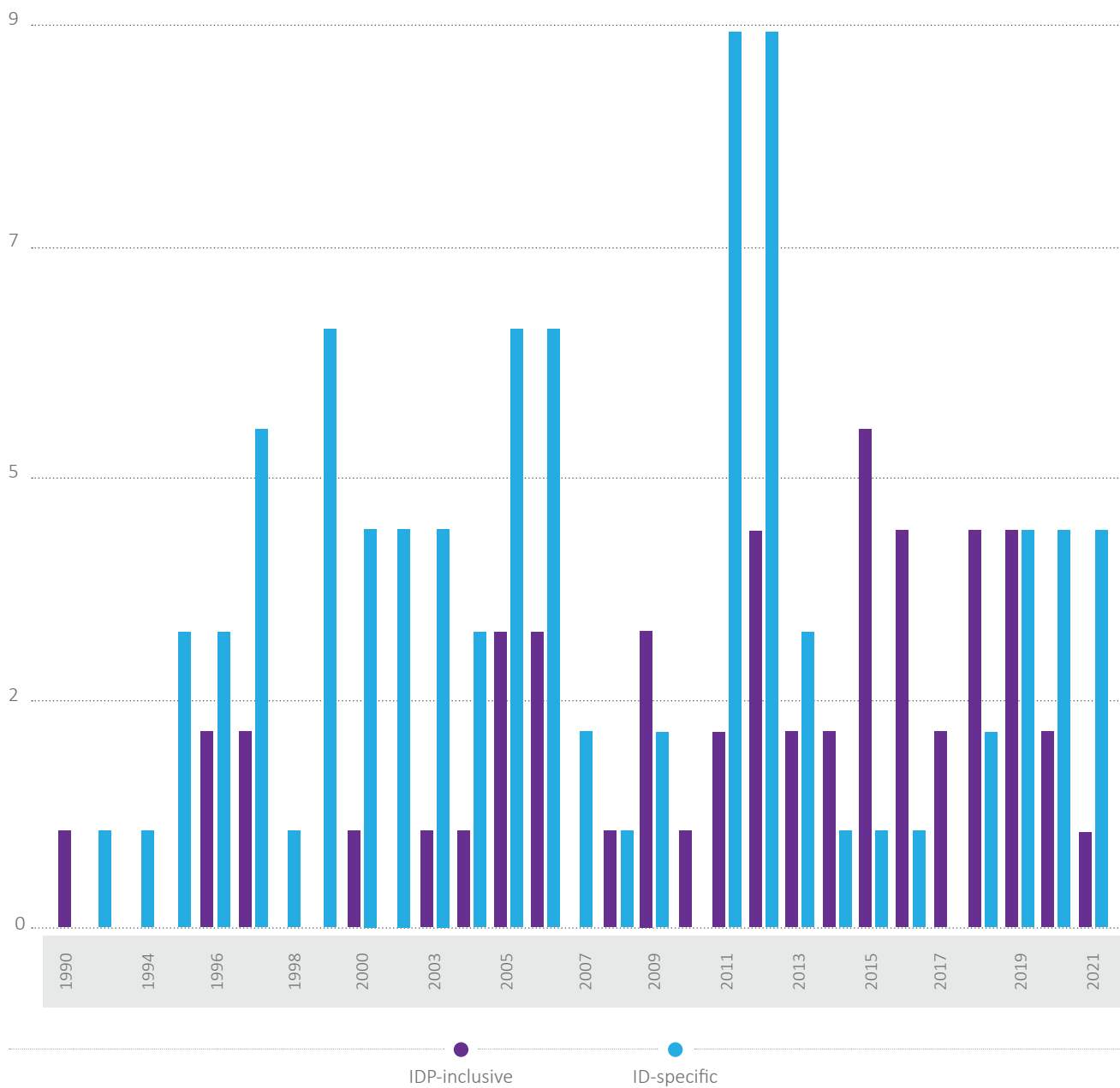
¹⁶⁷ - MIRPS, *Annual Report of the Comprehensive Regional Protection and Solutions Framework 2020*.

¹⁶⁸ - See *event report*.

¹⁶⁹ - Peru: *Law N. 28223 on Internal Displacement, 2004*, 28 April 2004.

¹⁷⁰ - El Salvador: *Ley especial para la atención y protección integral de personas en condición de desplazamiento forzado interno*, 23 January 2020.

Trends in IDP Related Instruments - Americas Region, 1990 - 2021:





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The development of the existing laws and policies on internal displacement in the continent has been advocated for and initiated primarily to respond to situations of displacement resulting from armed conflict, generalized violence and human rights violations. As a result, these instruments mainly focus on these situations of internal displacement, and their references to disaster displacement tend to be minimal or not present at all. In countries with IDP laws in place, the response to internal displacement as a result of disaster and the adverse effects of climate change is usually regulated through well-established national legal, policy and institutional systems related to disasters and climate change.¹⁷¹

The same applies to all other countries in the Americas, though further efforts are needed to adequately integrate human mobility - including disaster displacement - in respective national instruments related to disaster and climate change in line with relevant international and regional frameworks. The Governments of **Costa Rica**, **Guatemala** and **Mexico** have taken positive steps in this direction, including respectively through the adoption of a *National Risk Management Plan 2016-2020*,¹⁷² a *National Climate Change Action Plan (2018)*¹⁷³ and a *National Law on Climate Change (2012)*.¹⁷⁴

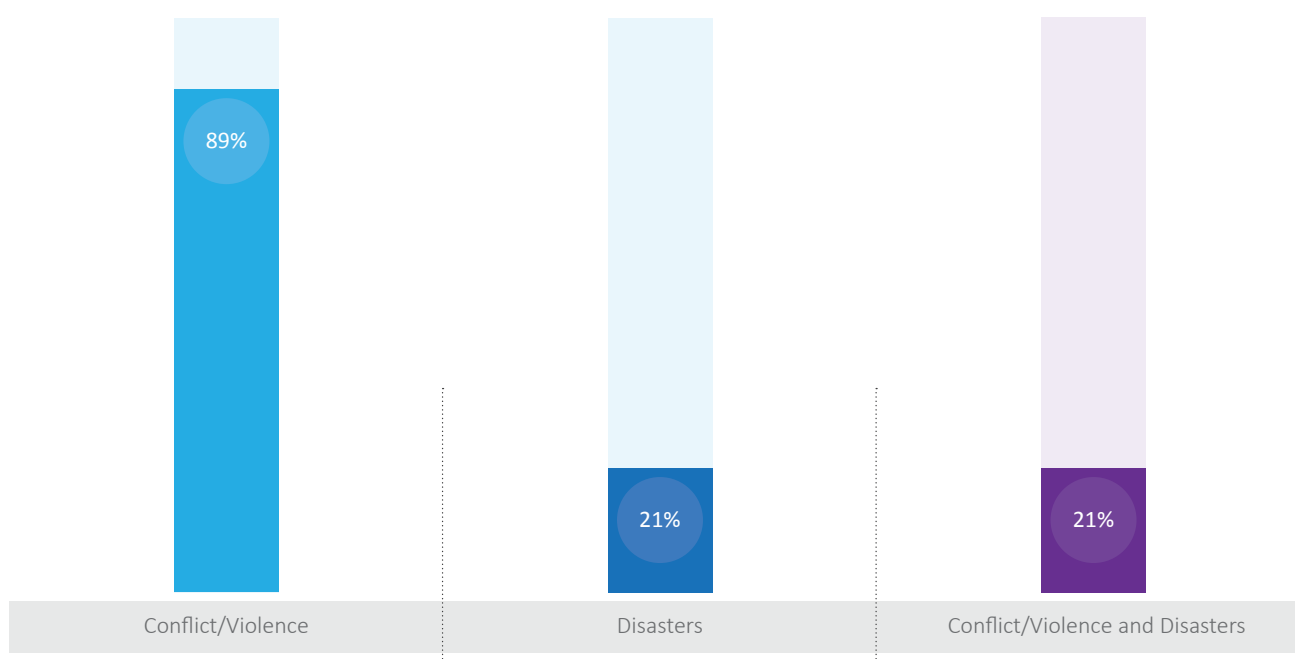
¹⁷¹ - See México: *Programa Especial de Cambio Climático 2009-2012* from 2009 and *Ley General de Cambio Climático* from 2012; Colombia, Law N°1523 from 2012 "Por el cual se adopta la política nacional de gestión del riesgo de desastres y se establece el sistema nacional de gestión del riesgo de desastres y se dictan otras disposiciones"; and Peru: Law N° 30754 (*Ley Marco Sobre Cambio Climático*) from 2018.

¹⁷² - Costa Rica's *National Risk Management Plan 2016-2020*, p. 39, provides for the establishment of a "procedure for the assistance to the migrant population, displaced by disaster situations or political conflicts, (to be) drafted, operating and duly disseminated".

¹⁷³ - National Climate Change Council (NCCC), Government of the Republic of Guatemala, *National Climate Change Action Plan (2018): 'Human Mobility and Climate Change'*, Second Edition, p.63. This "aims to demonstrate the need to initiate monitoring through statistics and joint work between state institutions to ensure protection and assistance to climate displaced persons, whether internally or across borders, taking into consideration the types of displacement established through the Nansen Initiative (2015)".

¹⁷⁴ - This Mexican law for example describes the attribution of authorities at all three levels of government to "implement actions to adapt in policymaking in various areas such as internal displacement of people caused by climate change related phenomena". It also states that authorities must implement "actions for adaptation (...) to prevent and address the possible internal displacement of people caused by climate change-related phenomena" (Articles 28 section VII and 30 section II).

Americas - Causes of Displacement in IDP-specific Instruments:



In countries affected by armed conflict, important **legal and policy instruments protecting the rights of IDPs have also been established in the context of the transitional justice processes** that have taken place there. As a result, these instruments have included specific measures around reparation, compensation and restitution for victims of certain violations. In **Peru**, IDPs were among the beneficiaries of the Comprehensive Reparation Plan created by Law No.28592 in 2005.¹⁷⁵ Following the peace agreements in 1994 **Guatemala** launched a National Reparation Programme, which was renewed in 2020.¹⁷⁶ In **Colombia**, the whole system of protection and assistance of IDPs created by the IDP law in 1997 and its implementing instruments was subsumed under a complex and comprehensive system of

attention to victims established by the **Victims and Land Restitution Law** (Law No.1448 of 2011, hereinafter Victims Law)¹⁷⁷ and its accompanying decrees.¹⁷⁸ These now constitute the main normative tools of the Colombian State to guarantee the rights of the victims of the armed conflict, including IDPs. The 2016 Peace Agreement between the Government of Colombia and the Revolutionary Armed Forces of Colombia (FARC) also prioritized victims' needs as part of the post-conflict peace building strategy.¹⁷⁹ In line with the Victims' Law, a Unit for the Attention and Integral Reparation of Victims was established as a coordinating focal point for these matters under the Presidency of the Republic, and a National Registry of Victims has consolidated the preceding registries.

¹⁷⁵ - See for example ICTJ/Brookings, *Reparations and Displacement in Peru*, 2012.

¹⁷⁶ - See Guatemala: *Acuerdo Gubernativo N°98-2020* of July 2020.

¹⁷⁷ - Its validity was extended for ten additional years in 2021 through the adoption of Law 2078/21 of January 2021.

¹⁷⁸ - Decrees 4633 of 2011, 4634 of 2011 and 4635 of 2011.

¹⁷⁹ - They also established three transitional justice bodies: a Special Jurisdiction for Peace, a Truth Commission and a Missing Persons Search Unit. The Special Jurisdiction and the Truth Commission both have the role to also investigate internal displacement, according to their respective functions.

The Victims' Law also created a sophisticated mechanism for land restitution, in which the Land Restitution Unit plays a key role.¹⁸⁰ However, the land restitution process so far has been slower than hoped due to various challenges.¹⁸¹

NGOs¹⁸² and national human rights institutions¹⁸³ have played an essential role in the region in promoting the establishment of adequate laws and policies for the protection of IDPs including through their monitoring, reporting and legislative advocacy efforts, and support for strategic litigation. **The role of the judiciary sector also deserves particular attention.** In **Colombia**, the Constitutional Court was fundamental in monitoring and guaranteeing that Law No.387 of 1997 on internal displacement was effectively implemented. In its landmark decision T-025 of 2004, the Court declared the existence of an 'unconstitutional state of affairs' with respect to the situation of IDPs. It based its decision on the serious, massive and systematic violations of their fundamental rights, as well as the precarious institutional and budgetary capacity of the Colombian state to assist them at that time. Later, the court decided to maintain the competence to verify compliance with its decision and ensure that the authorities adopt the necessary measures to guarantee the effective enjoyment of the fundamental rights of the displaced population, by establishing a Special Room for the Follow-up of Decision T-025 which remains active until the date.¹⁸⁴ Interestingly, in several of its decisions the Court referred to the Guiding Principles as part of the "constitutionality

block" (*bloque de constitucionalidad*), which means that the Principles are used as parameters for the control of the constitutionality of laws even without appearing formally in the articles of the constitutional text; they are considered in the same range as other international human rights instruments ratified by Colombia.

In **El Salvador**, the Constitutional Chamber of the Supreme Court of Justice was also essential to achieve an official recognition of internal displacement in the country and the establishment of a legal framework to address the issue. Prior to its ruling, the country had a system of protection focused on victims and witnesses who cooperated with the criminal justice system, which was not sufficiently well equipped to protect IDPs.¹⁸⁵ In 2018, the Court issued a ruling that not only recognized the existence of violence and internal displacement in the country, but also urged the government to develop a specific law dedicated to IDPs.¹⁸⁶ As a result in 2019, following a forum convening all stakeholders to promote dialogue on the development of the law and its contents, four different bills addressing internal displacement were presented to Parliament. The Committee on Legislation and Constitutional Matters formed a technical team of advisers from different parliamentary groups and UNHCR; the team conducted a comparative study of the four bills, consolidated them into a single document which was presented to the Committee. Based on consultations with stakeholders, including IDPs,¹⁸⁷

¹⁸⁰ - The process has two stages: an administrative one, carried out by the Land Restitution Unit, culminating with the registration of the property in the Single Registry of Dispossessed or Forcibly Abandoned Lands; and a judicial stage, where judges and magistrates specialized in land restitution decide if restitution of the land is due. Claims can be made on rural or urban assets, and the claimants can be: owners, possessors or occupants of vacant assets. The claim for land restitution can also be made for collective properties (community councils of Afro-Colombian people or indigenous territories). To continue the restitution process, the area where the land is located must count with some minimal security conditions. In addition, the Single Registry of Abandoned Properties and Territories – RUPTA for its initial in Spanish – is still in force. Also administered by the Land Restitution Unit, RUPTA seeks to protect the rights of property, possession and occupation of abandoned lands due to the conflict, removing them from the market through an annotation on their real estate registration folio.

¹⁸¹ - For more information, see for example Comisión Colombiana de Juristas, 2019, *Radiografía de la restitución de tierras en Colombia*.

¹⁸² - Ligia de Aquino Barbosa Magalhaes et al., 2020, *Incentivising Political Will for the Response to Internal Displacement: The Role of NGOs in Latin America*, Refugee Survey Quarterly, 2020, 39, 444–465.

¹⁸³ - UNHCR et al., 2022, *Protecting Internally Displaced Persons: a Handbook for National Human Rights Institutions*, p. 47-52.

¹⁸⁴ - This was made possible based on the T-025 decision and in accordance with the provisions of article 27 of Decree 2591 of 1991.

¹⁸⁵ - GP20, *Regional Exchange on Preventing and Addressing Internal Displacement in the Americas*, 2020, p. 5.

¹⁸⁶ - See *Amparo 411-2017*, Decision of 13 July 2018.

¹⁸⁷ - Ten consultations over six different departments, including 15 communities and amounting to a total of 225 people.

the Committee finalized the bill which was then approved by unanimity on 9 January 2020. While the regulations implementing the law have not been developed yet, the Ministry of Justice and Public

Security is considering the next steps towards its concrete implementation and possible additional legislative reforms.

The Colombian experience: key lessons learnt on implementation

The implementation of the Victims' Law has been based on three main principles: progressiveness,¹⁸⁸ graduality¹⁸⁹ and sustainability, including with an emphasis on financing. Despite the remaining challenges to a full and effective implementation of the Victims' Law, and that according to the Constitutional Court the Unconstitutional State of Affairs remains in force, some important lessons can be learnt from the Colombian experience,¹⁹⁰ including on:

- a *Planning and monitoring* through the so-called "CONPES" documents, adopted by the National Council for Economic and Social Policy. These include an action plan to be monitored by the National Planning Department and provide for the actions necessary to implement a public policy and its proposed goals, to identify the entities responsible for its implementation, the associated resources, the period of compliance and the parameters for its monitoring.¹⁹¹ Local authorities are also responsible for developing Territorial Action Plans, including specific plans to attend IDPs in the main sectors of the national public policy (such as contingency plans for emergencies, prevention and protection plans, and specific plans to promote return and relocation of IDPs in line with standards).
- b *Interinstitutional coordination* with strategic direction coming from the highest level. The Victims' Law provides for coordination among a broad group of entities, with identified focal points for victim assistance in each. The National System for the Attention and Reparation of Victims (SNARIV) engages 32 departments, 1101 municipalities and 46 entities at the national level, with the participation of civil society, academia and the private sector. The Victims' Law identifies measures that are primarily the responsibility of local authorities - who are also legally obliged to include goals and resources for victim assistance in their development plans, while acknowledging the importance of generating commitment also through positive incentives (e.g. co-financing projects).

188 - As it orients public policy towards the full enjoyment of rights of the victims, while guaranteeing minimum rights.

189 - Reflecting the State's responsibility to design operational tools with a defined scope- in terms of time, geographical application and budgetary resources, that allow for its staggered implementation, while considering the obligation to implement them throughout the country within a given period of time, in line with the constitutional principle of equality.

190 - Minutes from the 3rd meeting of the MIRPS Working Group on Internal Displacement, September 2020.

191 - Four CONPES were approved since the Victims Law came into force: CONPES 3712 of 2011 (Financing Plan for the Victims Law); CONPES 3716 of 2012 (Guidelines, Plan of Execution of Goals, Budget and Monitoring Mechanism for the National Plan for Attention and Reparation of Victims- PNARIV); CONPES 3784 of 2013 (Guidelines for the Protection of the Rights of Women Victims of the Armed Conflict); and CONPES 4031 of 2021, which updates the general guidelines, target implementation plan, budget plan and monitoring mechanisms for the PNARIV as consequence of the extension of the validity of Law 1448 of 2011 and Decree-Laws 4633, 4634 and 4635 of 2011 established by Congress through Law 2078.

The Colombian experience: key lessons learnt on implementation (continued)

- c** *Victim participation* was institutionalized through the Victims' Law with a system based on a process of election that provides for victim representation through dedicated bodies ("mesas", roundtables) at the municipal, departmental and national level, which feeds into the territorial Transitional Justice Committees up to the highest level - the Executive Committee, as well as technical committees. Some lessons over the years concern the importance of participation as a right and an approach to strengthen victims' agency, and of balanced gender and diversity representation¹⁹² (reflected in the plural composition of roundtables); of incentives for training and education, as well as for attendance at advocacy spaces; finally, the need to take into account victims' protection needs and avoiding additional risks for them. As a result of the 2016 peace agreement, another important instrument to promote victims' political participation was the creation of Special Districts for Victims (*curules de paz*), allowing for the first-time victims to have specific representation within the House of Representatives.
- d** *Accountability mechanisms* provide legitimacy and transparency to a public policy. In Colombia, progress on the implementation of the Victims' Law is monitored through the work of the Victims' Roundtables, the Constitutional Court, the Monitoring and Follow-up Commission and the Special Follow-Up Commission of the Congress. In addition, annual reports on the implementation of the law are presented by several important institutions: the President to the Congress of the Republic, the Ombudsperson's Office, the Office of the Procurator General and the Comptroller's Office. Other actors involved in promoting accountability include civil society organisations, academia and UNHCR.

In **Honduras** and **Mexico**, draft legislations on internal displacement are currently pending in parliament for adoption. In both countries, as in **El Salvador**,¹⁹³ these instruments aim to address displacement primarily due to violence and human rights abuses related to the increasing control and activities of gangs or organized crime. In 2013, the government of **Honduras** was the first one in Central America to recognize the existence of internal displacement in its territory. As a result, an Inter-Institutional Commission for the Protection of People Displaced by Violence (CIPPDV) was established.¹⁹⁴

The adoption of a legal framework was set as a main goal and the Government committed to it, following the recommendations of the Special Rapporteur on the human rights of IDPs in his 2015 official mission report¹⁹⁵ - a commitment which was reiterated by Honduras through its GCR pledges. Building on local responses and an inclusive, participatory process, a draft Law on the Prevention, Attention and Protection of IDPs supported by the Ministry of Human Rights (*Secretaría de Derechos Humanos*) was prepared and handed over by the CIPPDV to members of the national Congress in March 2019. The draft bill

¹⁹² - Many countries of the region have adopted the so-called "enfoque diferenciado," through which law and policies have been adapted to meet the needs of indigenous groups, black or afro-descendant communities and women.

¹⁹³ - The IDP law (Art. 2) specifies that IDPs due to the internal armed conflict and disasters are not part of the ambit of application of the law.

¹⁹⁴ - See *Decreto Ejecutivo Número PCM-053-2013*.

¹⁹⁵ - https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/32/35/Add.4.

was finally introduced to the legislative agenda as Initiative 41 in October 2019, after the Parliamentary Commission on Justice and Human Rights issued its favourable opinion. Unfortunately, the adoption of this important law has not been prioritized by Congress yet, despite considerable and coordinated advocacy efforts of relevant stakeholders,¹⁹⁶ such as the campaign “*Vos también podés ser víctimas de desplazamiento*” led by the CIPPDV, the community-based organisation “Youth against violence” and the

Coalición de Diputados de Apoyo a la Ley.¹⁹⁷ The electoral process ahead of the 2021 general elections is believed to have maintained the Bill out of the strategic priorities of lawmakers but 2022 presents a clear opportunity to bring this process to an end. This is why the CIPPDV has continued to promote greater involvement of civil society organisations and community groups to position the need to adopt the law as a priority on the new government’s agenda.¹⁹⁸

196 - The CIPPDV developed an advocacy plan with the support of UNHCR focused on engaging civil society organizations and communities as spokespersons and advocates for the adoption of the bill. Caritas, Human Development Centre), Save the Children, World Vision, Youth Against Violence and Doctors of the World conducted advocacy actions for the adoption of the IDP bill that resulted in improved direct participation of young people, LGBTIQ+, women, persons in rural areas and persons who live in high-risk areas through training and direct dialogue with key actors. These actions resulted in advocacy campaigns on social and printed media highlighting the impact of displacement and the urgency of adopting a legal framework, as well as work meetings and sessions with key actors, like lawmakers. Community engagement through theatre, art and music raised awareness on the gaps in current public policies and their impact on IDPs and those at risk of displacement.

197 - See *Piden al CN aprobar una ley para atender y proteger a los desplazados | Proceso Digital*, October 2020.

198 - As of June 2022, 17 civil society organizations and international agencies had joined the CIPPDV in the promotion of the “247,000 reasons to adopt the IDP law” campaign, resulting in greater media exposure and direct dialogue with lawmakers.



The adoption of an IDP law remains an urgent and necessary step that Honduras must take to prevent the conditions leading to displacement, and guarantee the right of IDPs to be protected and achieve a durable solution. In the absence of a national legal framework that allocates clear official roles, responsibilities and associated budgetary allocations, even progress made for the benefit of IDPs in different areas (for example through the registration of abandoned properties)¹⁹⁹ is at risk of being thwarted. Even in this context, the Inter-Institutional Commission for the Protection of People Displaced by Violence with the support of UNHCR has advanced on the design of its Strategic Response Plan on Internal Displacement (2023-2026), to be completed in 2022.

Finally, it is important to highlight that so far, only in the Americas **criminal codes have been modified to include specific offences and sanction arbitrary**

displacement as an ordinary crime (in addition to an international crime as defined in international law). This was made first in **Colombia**, then in **Honduras** and Mexico in the states of **Sinaloa, Guerrero** and **Sonora** (a similar reform bill was proposed in Chihuahua as well).²⁰⁰ It is interesting to note that in **Colombia** there is a specific unit attached to the judiciary, the Information Analysis Group (GRAI), that conducts context analysis, identifies and characterizes patterns of criminal or macro-criminal behaviour and manages information in order to contribute to the decision-making of the judiciary and the Special Jurisdiction for Peace. In recent years, this group has focused on the investigation of criminal patterns that generated internal displacement under the framework of the armed conflict. This information could contribute to the opening of a "macro case" on internal displacement, essential to advance in the prosecution of the crime of arbitrary displacement in the Colombian context.

199 - GP20, GP20 Compilation of National Practices to Prevent, Address and Find Durable Solutions to Internal Displacement: Honduras, 2020.
 200 - See UNHCR-TTLP, Making Arbitrary Displacement a Crime: Law and Practice, 2022.



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Country in focus:
MEXICO



Overview of the Main Laws and Policies on Internal Displacement:

Specific to internal displacement:	Including internal displacement:
<p>Sub-national:</p> <ul style="list-style-type: none"> - <i>Ley para la Prevención y Atención del Desplazamiento Interno en el Estado de Chiapas (Decreto N° 158) (2012)</i> - <i>Ley Número 487 para Prevenir y Atender el Desplazamiento Interno en el Estado de Guerrero (2014)</i> - <i>Ley para Prevenir, Atender y Reparar Integralmente el desplazamiento Forzado Interno en el Estado de Sinaloa (Decreto N° 481) (2020)</i> - <i>Ley para la Prevención y Atención del Desplazamiento Forzado Interno en el Estado de Zacatecas (2022)</i> 	<p>National:</p> <ul style="list-style-type: none"> - <i>Ley de Asistencia Social (2004)</i> - <i>Ley General de Protección Civil (2012)</i> - <i>Ley General de Cambio Climático (2012)</i> - <i>Ley General de Víctimas (2013)</i> - <i>Programa Nacional de Derechos Humanos 2020-2024 (2020)</i>
	<p>Sub-national:</p> <ul style="list-style-type: none"> - <i>Constitución Política de la Ciudad de México (Articles 2, 11 and 20)</i> - <i>Constitución Política Del Estado Libre y Soberano de Oaxaca (Article 16)</i> - <i>Constitución Política del Estado de Sinaloa (Article 4 Bis B)</i> - <i>Constitución Política del Estado Libre y Soberano de Guerrero (Article 6)</i> - <i>Constitución Política del Estado Libre y Soberano de Chiapas (Introduction)</i> - <i>Código Penal, Estado de Sinaloa (art. 175 bis) (2020)</i> - <i>Código Penal, Estado de Guerrero (art. 220 bis) (2021)</i> - <i>Código Penal, Estado de Sonora (art. 220 bis) (2021)</i> - <i>Ley de Víctimas del Estado de Nuevo León (2013)</i> - <i>Ley de Atención y Protección a Víctimas del Estado de Sinaloa (2014)</i> - <i>Ley Número 450 de Víctimas del Estado Libre y Soberano de Guerrero (2017)</i>

Context

In 2021, an estimated 19,000 new internal displacements were reported in Mexico as a result of disasters,²⁰¹ including floods and fires that struck several parts of the country. Nonetheless, violence,

inter-communal conflict and human rights violations are still the main causes of displacement in Mexico. In the absence of official national statistics, civil society organisations,²⁰² international organisations

²⁰¹ - IDMC, *GRID 2022*.

²⁰² - CMDPDH, *Annual reports*.

and authorities have carried out studies on internal displacement, including a national analysis on the situation of IDPs in Mexico.²⁰³ Estimates on displacement vary significantly: while the CMDPDH reported on the basis of their media monitoring that between 2006 and 2020, nearly 357,000 people were internally displaced due to attacks, intimidation or persecution perpetrated by criminal and other armed groups,²⁰⁴ according to the 2019 National Crime and Victimization Survey, about 1.7million people reportedly changed their homes because of crime and violence.²⁰⁵ Available evidence shows that certain groups are particularly at risk of being displaced, including LGBTIQ+, journalists, human rights defenders and indigenous people.

National Framework on Internal Displacement

The Federal Government of Mexico officially recognized the existence of forced internal displacement at the national level in 2019. Since taking this essential first step, the government has started to work towards the development of a specific legal instrument for the protection and assistance of internally displaced persons at the federal level. Supported by work elaborated by National Commission on Human Rights²⁰⁶ and civil society organisations on the subject, several authorities within the Sub-Secretary for Human Rights, Population and Migration at the Ministry of Interior (*Secretaría de Gobernación*) - including the Unit for Migration Policy, Register and People Identity (*Unidad de Política Migratoria, Registro*

e Identidad de Personas - UPMRIP), the Mexican Commission for Refugee Assistance (*Comisión Mexicana de Ayuda a Refugiados* - COMAR), the National Population Council (*Consejo Nacional de Población* - CONAPO), and the Commission for Dialogue with Indigenous People of Mexico - set up a working group and started the development of a draft legislation on internal displacement.

The Ministry of Interior shared in February 2020 the *Project of General Law to Comprehensively Prevent, Attend and Repair Forced Internal Displacement* with a working group composed of UN agencies led by UNHCR, specifically established to provide technical assistance to the government in this process, as well as with academics and the ICRC. In March 2020, the Commissions on Migration Affairs and the Commission on Government and Population led a session of Open Parliament at the Chamber of Deputies to discuss the draft legislation. In September 2020, the draft legislation was approved unanimously by the Chamber of Deputies and sent to the Senate for the corresponding analysis, where it currently stands for revision together with other bills that were proposed on internal displacement in 2020.²⁰⁷ This progress has been welcomed by national actors that had long advocated for internal displacement to be recognized and addressed in the country through an adequate framework; for example, a group of Senators invited the Special Rapporteur on the Human Rights of IDPs to discuss this issue in 2016. In August 2017, Mexico also hosted an International Forum on Forced Internal Displacement, aimed at raising the visibility and strengthening stakeholders'

203 - CONAPO, *Diagnóstico nacional sobre la situación del desplazamiento forzado interno en México*, 2021; CONAPO, *Desplazamiento interno en contextos indígenas. Tres miradas estatales a un problema compartido*, 2021; UPMRIP, *Migración interna por violencia o inseguridad en México*, 2020; CONAPO, *La violencia como causa de desplazamiento interno: aproximaciones a su análisis en México*, 2019; CONAPO, *Perfil sociodemográfico de la población que cambió de vivienda o lugar de residencia para protegerse de la delincuencia*, 2019; CNDH, *Informe Especial sobre Desplazamiento Forzado Interno (DFI) en México*, 2016.

204 - CMDPDH, Annual Report 2020.

205 - INEGI presentation at the World Data Forum 2020, and ISI World Statistics Congress 2021.

206 - See: CNDH, *Informe Especial sobre Desplazamiento Forzado Interno (DFI) en México and Protocolo para la Atención y Protección de las Víctimas de Desplazamiento Forzado Interno (DFI) en México* both presented at the Senate in September 2016, or the *Proposal to modify article 73 of the Political the Constitution of the United States of Mexico* presented in March 2018.

207 - See CMDPDH, *Normative Framework*.

commitment on this at the international, regional and country levels.²⁰⁸ Such progress was also promoted through initiatives such as the Sanremo Courses on Internal Displacement, which many key representatives from the Mexican national and local governments, as well as members of the national human rights commission, academia and civil society, attended in recent years. **However, the adoption of this legislation remains pending, despite it being a priority for many IDPs** and civil society organizations that support them, that have come together in a National Collective of IDPs to increase the visibility of internal displacement in Mexico, and advocate for this law to be passed.

Most importantly, this national initiative was spearheaded by several legislative initiatives on internal displacement at the (sub-national) state level. The state of **Chiapas** was the first to adopt the *Law for the Prevention and Assistance to Internal Displacement in the State of Chiapas* in 2012.²⁰⁹ In 2014, the *Law to Prevent and Address Internal Displacement in the State of Guerrero* followed.²¹⁰ More recently, in August 2020, the State of **Sinaloa** also adopted its own *Law to Comprehensively Prevent, Attend and Repair Forced Internal Displacement in the State of Sinaloa*.²¹¹ As of August 2022, the Congress of the State of **Zacatecas** had also adopted its own IDP law.²¹² The State of **Michoacán de Ocampo** and the State of **Mexico** were also developing their own draft IDP laws, and similar state bills were also proposed in **Morelos** and **Oaxaca**. In **Nuevo Leon**, legislators passed a bill to reform the state's Law on Victims which recognizes IDPs as a group that is "exposed

to a greater risk of violation of their rights" and establishes specific measures for their protection.²¹³ In addition, some of these states have also decided to criminalize arbitrary displacement, by including a specific offence and sanctions in their penal codes (in Sinaloa in August 2020, and in Guerrero in September 2021).²¹⁴ Since 2020, there have also been advances in the state of **Chihuahua** where the government, in collaboration with the federal government, civil society, international organizations and other relevant stakeholders, has been working on a profiling exercise on the situation of internal displacement within its borders and it is developing protocols for the assistance to victims of internal displacement. The recommendations issued by the National Human Rights Commission have also been instrumental to push some of these actions at the state level.²¹⁵

Several entities of the federal government have started to address internal displacement based on existing national frameworks. For example, in line with the objective of the National Development Plan (2019-2024) of achieving "no more migration due to hunger or violence," the National Programme for Human Rights (2020-2024) included several actions to be taken to address internal displacement, including the development of a specific normative framework. Similarly, in line with the General Law of Victims (2013) that explicitly includes IDPs among the categories of victims - especially those at greater risk of violations and who require specialized or differentiated assistance, the Executive Commission for Victims Assistance²¹⁶ developed a *Protocol for the Assistance in cases of Forced Displacement*²¹⁷

208 - See *Mexico Declaration on Forced Internal Displacement*.

209 - Decree Number 158.

210 - Law Number 487.

211 - Decree Number 481.

212 - <https://www.congreso Zacatecas.gob.mx/64/ley&cual=361&tipo=pdf>.

213 - CMDPDH, Newsletter on the situation of internal displacement in Mexico July- December 2021.

214 - Respectively: Decree 481 of 2020 and Decree 843 of 2021.

215 - CNDH, *Recommendation 39/2017*, which relates to the situation of displaced persons in the state of Sinaloa, where NCHR commented on the need of an assessment of the context of internal displacement in that territory, and a draft of a law that classify as a crime the figure of internal displacement; CNDH, *Recommendation 94/2019*, also recommending to implement a profiling exercise in the state of Chihuahua.

216 - CEAV is also the leading agency of the National System for Victims Assistance (*Sistema Nacional de Atención a Víctimas – SNAV*).

217 - See CEAV, *Protocolo de Atención en Casos de Desplazamiento Forzado*, 2021.

and related guidance for its application.²¹⁸ These are important developments although so far, only a very limited number of IDPs have been able to access assistance under the framework of this law.

The UPMRIP is also coordinating an inter-institutional group on internal displacement, leading a series of important initiatives giving visibility to the advances made by the Mexican government on internal displacement and pushing the agenda forward. For example, in 2021 the Unit initiated with the support of UNHCR a comprehensive analysis of the existing legal and policy framework at national level to identify possible gaps and concrete policy measures that can be applied to protect and assist people displaced internally in Mexico, including in the absence of a national framework.²¹⁹ In August 2022, the Unit co-organized with UNHCR a workshop with all relevant federal

authorities to produce a concrete roadmap towards the implementation of the recommendations stemming from the analysis.²²⁰ In addition, with IOM support, UPMRIP also carried out an assessment of the implementation of subnational laws in Chiapas, Guerrero and Sinaloa.²²¹ The Supreme Court of Justice of Mexico, with the support of UNHCR and the ICRC, also developed a manual on internal displacement.²²² This will help guide the identification of human rights violations facing IDPs and will spell out the responsibilities of the judiciary to also strengthen its role in the promotion and protection of IDPs' rights. **Although the absence of a specific legislation to comprehensively address the rights of the IDPs at federal level remains an important gap,**²²³ these initiatives are nevertheless very encouraging and the government's efforts should continue to be supported accordingly.

Europe

Context:

Most internal displacement situations in Europe can be characterized as protracted, and they date back to the 1990s. However, in recent years, new displacements were recorded in Azerbaijan due to renewed hostilities in Nagorno-Karabakh and, most significantly, in Ukraine. As of December 2021, over 3.2 million people were internally displaced in Europe due to conflict and violence.²²⁴ However,

by the end of September 2022, around 6.2 million people were estimated to be internally displaced across Ukraine alone as a result of the escalation of the international armed conflict in the country since February.²²⁵ Displacement in Europe also occurs in the context of disasters: hundreds of thousands of people were newly displaced in 2021, primarily due to wildfires in the Mediterranean,

²¹⁸ - See CEAV, *Cartilla de Soluciones Duraderas. Reasentamiento, Retorno y Reintegración*, 2021.

²¹⁹ - UPMRIP and UNHCR, *Análisis del marco normativo y de política pública en México a nivel federal para la atención integral y protección de las personas en situación de desplazamiento forzado interno*, June 2022.

²²⁰ - The outcome document from the event was being finalized as of October 2022.

²²¹ - UPMRIP and IOM, *Diagnóstico sobre movilidad humana: con énfasis en la implementación de las leyes estatales sobre desplazamiento forzado interno en Chiapas, Guerrero y Sinaloa*, June 2022.

²²² - Supreme Court of Mexico, *Manual on Internal Displacement*, June 2022.

²²³ - OHCHR, *Mexico: UN expert urges law to protect Internally Displaced Persons' human rights*, 12 September 2022.

²²⁴ - IDMC, *GRID 2022*, p. 82.

²²⁵ - UNHCR, *Ukraine Operation Data Portal*, accessed on 12 October 2022.

storms and flooding in western and central Europe, and a volcanic eruption in Spain's Canary Islands.²²⁶

As the only Europe-wide intergovernmental organization with 46 member States²²⁷ and a mandate on human rights, democracy, and the rule of law, the Council of Europe (CoE) has developed a rich regional framework of human rights standards, including for IDPs. Through a combination of standard-setting, monitoring and cooperation activities, the CoE has significantly strengthened the protection of IDPs in Europe. The European Convention on Human Rights (ECHR), adopted in 1950 and ratified by all CoE Member States, is a particularly significant legal instrument and the most effective tool for the protection of IDPs in Europe. The European Court of Human Rights (ECtHR), which supervises the implementation of the ECHR, has also developed a distinct corpus of jurisprudence relating to the protection of the human rights of IDPs.²²⁸ Cases dealt with by the ECtHR include property and housing rights; the right to family and private life; electoral rights; and the right to freedom of movement, among others.²²⁹ The revised European Social Charter is another important tool for the protection of IDPs. The European Committee of Social Rights (ECSR) monitors member States' compliance with the Charter through the Collective Complaints Procedure and the Reporting System.²³⁰ Furthermore, while endorsing the Guiding Principles, the CoE Committee of Ministers has recognized that IDPs "have specific needs by virtue of their displacement" and developed in 2006 a set of 13 principles to guide member States "when formulating their internal legislation and practice" to ensure they effectively address internal

displacement.²³¹ The CoE also developed an online training to equip legal professionals throughout Europe with the skills to effectively protect IDPs' rights.²³² In addition, the CoE also counts on a Parliamentary Committee on Migration, Refugees and Displaced Persons, which has adopted a number of relevant resolutions, including most recently one on arbitrary displacement.²³³

In relation to displacement in the context of disaster and the adverse effects of climate change, the most recent European Forum for Disaster Risk Reduction (EFDRR), which took place in November 2021, brought together State representatives from 49 countries in Europe and Central Asia that endorsed the EFDRR Roadmap 2021-2030. The Roadmap highlights four key areas of work, including understanding and communicating risks, inclusive and collaborative governance and decision-making, supporting resilience, and preparedness. It also contains several references to the need to address displacement, and a side event at the Forum specifically discussed effective ways to do that through DRR strategies and practice.²³⁴

National Legal and Policy Developments

Europe has the highest number of adopted legal and policy instruments specifically addressing internal displacement compared to other regions worldwide, 43 out of a global total of 112 - 17 of which are laws.²³⁵ Such laws have often been followed by the adoption of a significant number of implementing instruments or operationalised through national strategies, often accompanied by periodic action plans.

226 - IDMC, *GRID 2022*, p. 83.

227 - On 15 March 2022, the Committee of Ministers *decided* that the Russian Federation ceases to be a member of the Council of Europe as of that day, after 26 years of membership.

228 - See Costas Paraskeva, *Protecting Internally Displaced Persons under the European Convention on Human Rights and Other Council of Europe Standards. A Handbook*, 2017, Council of Europe Project "Strengthening the Human Rights Protection of Internally Displaced Persons in Ukraine".

229 - UNHCR, GANHRI et al., March 2022, *Protecting Internally Displaced Persons: a Handbook for National Human Rights Institutions*, p. 58.

230 - ECSR, Decision on the merits: *Centre on Housing Rights and Evictions v. Croatia (COHRE)*, collective complaint no. 52/2008 of 22 June 2010.

231 - CoE Committee of Ministers, *Recommendation Rec(2006)6 to member States on IDPs* of 5 April 2006.

232 - The course is accessible [here](#).

233 - Parliamentary Assembly, 2021, *Resolution 2367- The protection of victims of arbitrary displacement*.

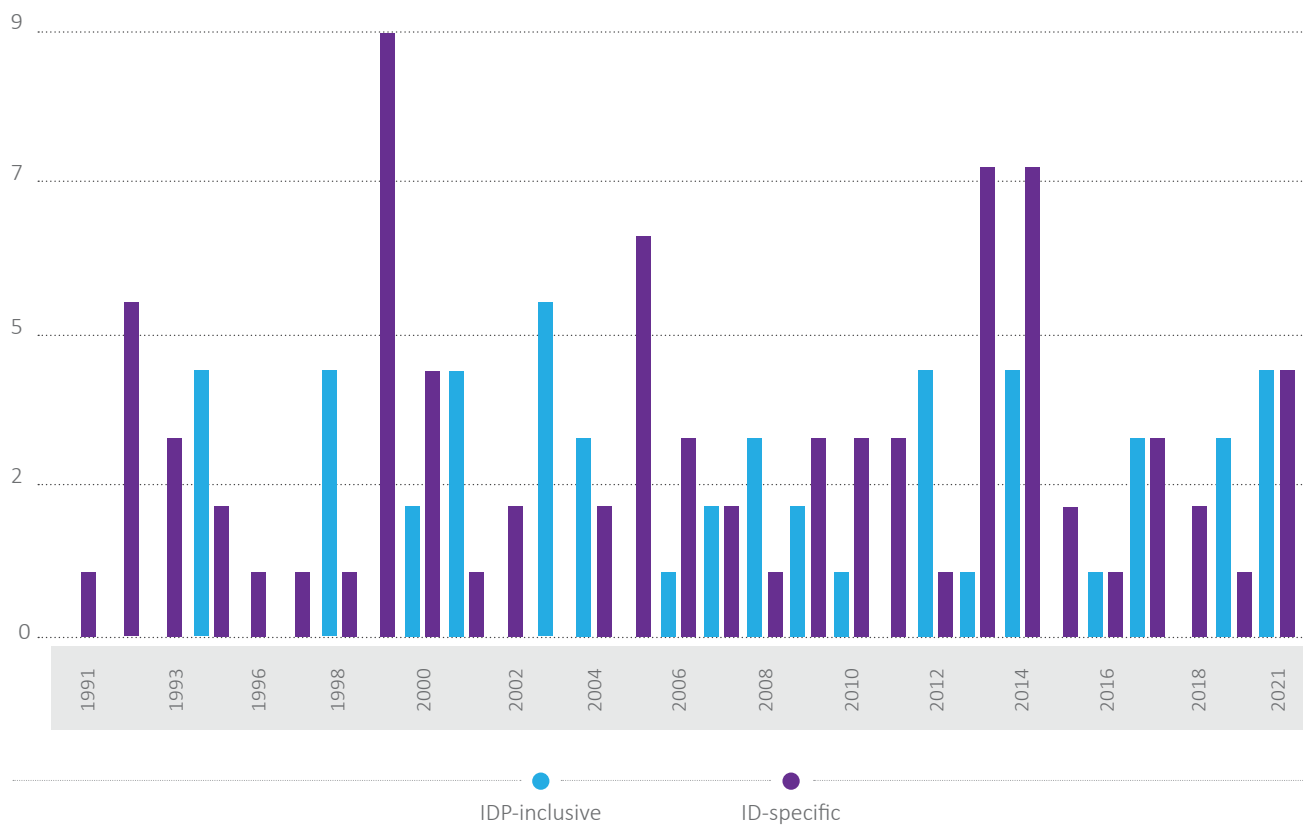
234 - See: PDD, *Reporting Back: Disaster Displacement at the European Forum for Disaster Risk Reduction*, 9 December 2021.

235 - This number excludes IDP-specific implementing instruments.



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Trends in IDP Related Instruments - Europe Region, 1991 - 2021:



For example, in **Georgia**, a national *Law Concerning Internally Displaced People* was first adopted in 1996, focusing on internally displaced people (citizens of Georgia or stateless persons permanently residing in Georgia) who primarily fled “as a result of aggression of a foreign state, internal conflict or mass violation of human rights”. A number of amendments were introduced over time to bring this law more in line with international standards,²³⁶ including as a result of judicial action.²³⁷ The instrument was eventually repealed and replaced by the *Law on Internally Displaced Persons – Persecuted from the Occupied Territories of Georgia* in 2014, which contains several important provisions that align the Georgian legal framework on IDPs with the Guiding Principles on Internal Displacement.²³⁸ To support the implementation of the law over the years, the government endorsed a State Strategy in 2007 signalling an important shift in government policy from temporary assistance to a focus on providing longer-term opportunities for integration. The strategy was accompanied by action plans that were adopted on a regular basis, formulating in more detail the activities to be implemented to achieve the objectives of the strategy.²³⁹ The last action plan was adopted for the period from 2021-2022 and focuses primarily on the implementation of housing and livelihood programmes for IDPs.

In **Serbia**, the government developed a *National Strategy for Resolving the Issues of Refugees and Internally Displaced Persons* valid for periods of three to five years on a regular basis since 2002. While the last one was adopted for the period between 2015 and 2020,²⁴⁰ the Serbian Commissariat for Refugees and Migrations was planning to develop a new strategy as of the end of 2021. **Ukraine** has also followed an approach similar to these countries (see country spotlight).

Legal and policy instruments for the protection of IDPs in Europe were adopted primarily in response to internal displacement caused by conflicts and violence related to the dissolution and creation of new states during the early 1990s,²⁴¹ or to conflicts that have flared up since then. As a result, **many of them exclusively cover armed conflict and generalized violence as causes of displacement** and compared to other regions, few legal and policy instruments address the issue of displacement in the context of disasters and climate change. Exceptions include **Armenia**, where *Decree No. 774-N (2014) On approving the procedure of the admission, registration and allocation of massively displaced population, including refugees, and their provision with temporary shelters, means of subsistence, and medical support* is applicable in “emergency situations”, which include contexts of disasters.²⁴²

²³⁶ - See *Global Database of Law and Policy on Internal Displacement*, [Georgia Country Page](#).

²³⁷ - In May 2013, in its *decision on the case: “Citizen of Georgia Tristan Mamagulashvili vs the Parliament of Georgia”*, the Constitutional Court of Georgia deemed unconstitutional the wording of Article 1 of the 1996 IDP law that defined IDPs as persons exclusively coming “from Georgia’s occupied territories.” More precisely, the Court found that Article 1 contradicted Article 14 of the Constitution according to which “everyone is free and equal before law” and as a result, that it was discriminatory to exclude people internally displaced from other areas of Georgia from the State’s support being provided to those displaced from “Georgia’s occupied territories”.

²³⁸ - To read about the main changes introduced by the new law in 2014, see [A/HRC/35/27/Add.2](#), para. 7.

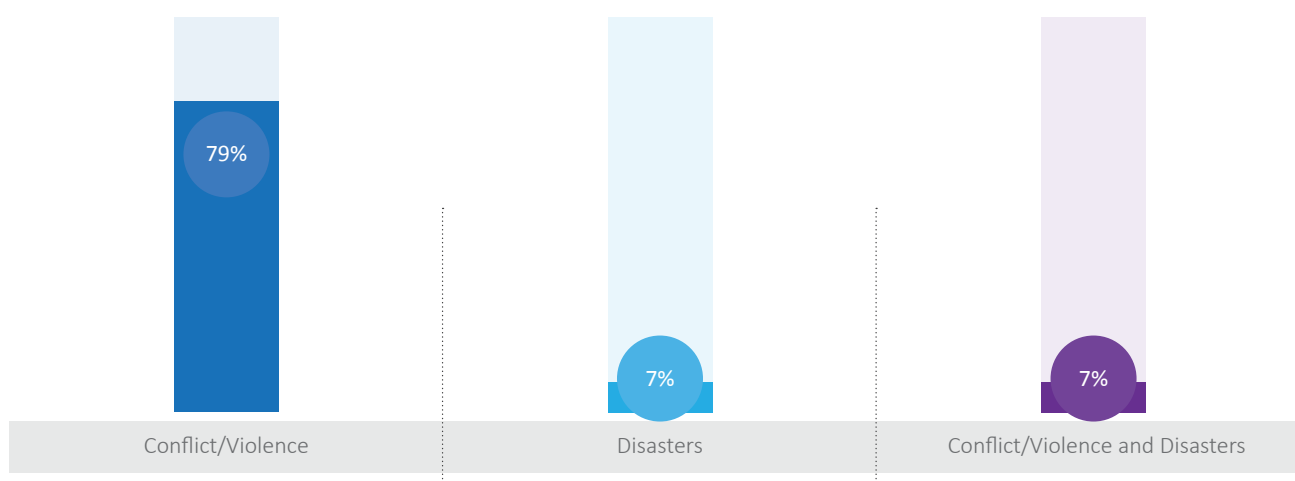
²³⁹ - [A/HRC/35/27/Add.2](#), para. 10.

²⁴⁰ - See *The National Strategy for Resolving the Issues of Refugees and Internally Displaced Persons for the period 2015-2020* (“Official Gazette of the RS”, No. 62/2015).

²⁴¹ - See *Global Database Russian Federation Law “On Forced Migrants”*, whose first redaction is Law N°4530-I of 19 February 1993, now in force in its new redaction as Law N°202-FZ of 20 December 1995.

²⁴² - According to Article 3, “Massive displacement of the population, including the refugees entering the Republic of Armenia, shall be carried out in emergency situations or in case of threat thereof that can result in factors negatively influencing the normal course of human life and subsistence in certain areas (places of residence).” *Armenian Law on Population Protection in Emergency Situations (1998)* defines emergency situations as “major accidents, dangerous natural phenomenon, technical, natural or ecological (natural protection) disasters, epidemic, epidemic of animals, widely spread infectious diseases of plants and agricultural cultured plants in a certain area or building situations created as a result of implementation of weapons which can lead to human losses, to significant harms to health and environment, to major material losses and to the breach of normal conditions during vital activities of people”.

Europe - Causes of Displacement in IDP-specific Instruments:



The IDP laws in **Azerbaijan**²⁴³ and **Ukraine**²⁴⁴ also include disasters among the causes of displacement recognized in their respective IDP definitions. However, it should be highlighted that these instruments - like all other IDP-specific instruments in Europe - have a strong focus on protection and assistance during displacement and durable solutions, while including very few provisions (if any) on prevention of internal displacement in line with international standards, whether in contexts of conflict and violence or disasters and the adverse effects of climate change. At the same time, it is important to acknowledge efforts made for example in **Georgia** to strengthen protection and assistance of those displaced by disasters (identified as “eco-migrants”), including through the adoption of a decree on the approval criteria for the accommodation of persons affected by and displaced as a result of disasters and its amendment in 2015.²⁴⁵

Another key feature of most legal instruments on internal displacement in Europe is their adoption of a status-based approach, also linked to the legal

and administrative traditions in the region, and the fact that many legal frameworks addressing internal displacement in Europe were adopted even before the Guiding Principles were published. A significant number of provisions in these laws are dedicated to detailing when and how such legal status can be granted or revoked, and what entitlements and duties come with it. Examples are the *Law on the Status of Displaced Persons and Refugees* (No.96/1993) from 1993 in **Croatia**, the *Decision No.03-5393 of 2006 on the Temporary Retention of the Status and Rights of Displaced and Internally Displaced Persons in the Republic of Montenegro*, and the *Law of the Republic on the Status of refugees and forced migrants* in **Azerbaijan** from 1992 (revised in 1999), which was modified through the *Regulation on Issuance of the IDP Status* adopted in 2013 to ensure a more effective process of issuing the “IDP” status to IDPs. The IDP laws of **Georgia** and **Ukraine** also follow this approach. National governments in these countries usually maintain IDP-specific registers and registration in these systems often allows accessibility of government services and provisions.²⁴⁶

²⁴³ - Law of the Republic of Azerbaijan on IDP (Internally Displaced Person) and Refugee Status (No.668-1Q), 1999.

²⁴⁴ - Law on ensuring rights and freedoms of internally displaced persons (N°1706-VII), 2014.

²⁴⁵ - Ministerial decree No. 779 13/11/2013.

²⁴⁶ - For more information on how IDP registration works in Azerbaijan, Bosnia and Ukraine, see the Technical Report on Statistics of Internally Displaced Persons developed by the by the IDP sub-group of the Expert Group on Refugee and Internally Displaced Persons Statistics (EGRIS), March 2018, pp. 26 and 39.

In many cases, the “internally displaced person status” provided for in national law has a strong value that is linked to return for displaced persons to their areas of origin, and many may wish to retain it; however, the *IASC Framework on Durable Solutions for IDPs* clarifies that a displaced person’s choice of local integration or settlement elsewhere in the country, in the absence of the option to return, must not be regarded as a renunciation of his/her right to return should that choice later become feasible. At the same time, even if existing policy instruments in Europe tend to have a strong focus on return and reintegration as the preferable durable solution for IDPs, which is linked to these governments’ claims over the territories disputed in the conflict, some national approaches have - at least in practice - increasingly shifted over time demonstrating increased support for settlement options other than return, particularly local integration. This was for example the case of **Georgia, Serbia and Ukraine**.²⁴⁷

The drafters of the Guiding Principles clarified that **“being an internally displaced person does not confer a special legal status in the same sense as does, say, becoming a refugee”**.²⁴⁸ The definition of who internally displaced persons are is a descriptive definition; in line with international law, internally displaced persons are entitled to protection and assistance from the state in whose jurisdiction they fall within, which is usually their state or nationality or of habitual residence; it is not by virtue of their displacement that protection should be granted, but

by the fact they were and continue to be citizens or habitual residents of the country. This is why in ongoing processes of IDP law-making across the world, technical experts generally advocate against the creation of a specific legal status for IDPs. **Where such status is established, there are concrete implications and important questions that need to be dealt with, such as: when does such status end? How does its existence relate to the achievement of durable solutions? Should such status be inherited by children of IDPs? For how many generations?** These are not easy questions to address and state practice varies significantly. In countries where IDP registration has been linked to status, deregistration has become very problematic because it still remains unclear how to measure when a durable solution is achieved and therefore when IDPs should be deregistered in line with that – if at all. There is currently no standardized methodology or practice to do this but a clear and growing recognition of the need to establish one has led to increased efforts to that end.²⁴⁹

Most of the above-mentioned IDP laws in Europe speak about the cessation of the “IDP status” for example if a person is declared missing or dead,²⁵⁰ or on leaving the state for permanent residence elsewhere,²⁵¹ or in case of return.²⁵² **Azerbaijan**, for example, has been discussing in 2022 a draft law that would also establish a legal status for returnees, as it was felt that the country lacked a legal framework governing issues relating to the

²⁴⁷ - For example, Serbia’s *National Strategy for Resolving the Issues of Refugees and Internally Displaced Persons for the period 2015-2020* states: “Regarding over 204,000 displaced persons from AP Kosovo and Metohija with a temporary residence on the territory of Serbia proper and over 18,000 displaced persons within AP Kosovo and Metohija, the Republic of Serbia has a strategic commitment to provide full support for sustainable return. However, the durability of displacement and the need to find suitable solutions for improvement of living conditions in displacement is accepted as a realistic fact which represents another strategic course of action.”

²⁴⁸ - The American Society of International Law and the Brookings Institution, *Guiding Principles on Internal Displacement: Annotations*, 2008.

²⁴⁹ - Caterina-Lizcano, *The Question of Data in Internal Displacement Law-and-Policy-making*, *Refugee Survey Quarterly*, 2020, 39, p. 644. For more on this point, see the *International Recommendations on IDP Statistics* by the Expert Group on Refugee and IDP Statistics adopted in 2018 by the UN Statistical Commission.

²⁵⁰ - Georgia, *Law on Internally Displaced Persons from the Occupied Territories of Georgia* (n 102), 2014, Article 10.

²⁵¹ - Russian Federation, *Law on the Forced Migrants* (n 16), Article 9.

²⁵² - *Law of the Republic of Azerbaijan on IDP and Refugee Status* (No. 668-IQ) (1999) (n 14), Article 14; Bosnia and Herzegovina, *Law on Displaced Persons, Returnees, and Refugees in the Republika Srpska* (n 16), Article 8; Republic of Croatia, *Law on the Status of Displaced Persons and Refugees*, 2 November 1993, HRV-125.

return and reintegration of IDPs (considered out of the scope of the country's IDP law). Interestingly, to address some of the problematic issues organically emerging from such policy choices, some countries are pursuing a **shift from status-based to needs-based assistance**.²⁵³ For example, the Government of **Georgia** has taken steps towards a gradual transition towards needs-based responses since 2017, for instance by introducing vulnerability criteria to allocate housing assistance for IDPs. Its latest action plan 2021-2022 also addresses the allowance reform in line with this transition. In addition, a new social code is to be finalised by 2023, to establish the legal guarantee to meet the needs of vulnerable people in Georgia.

When it comes to supporting solutions for IDPs, socio-economic concerns hold an important place in the response to internal displacement in Europe - first and foremost access to housing. As an example, the Council of Europe, UNHCR and the Organization for Security and Cooperation in Europe (OSCE) have been working together in the western Balkans since 2011 in the Regional Housing Programme in the context of the Sarajevo Process. This process, which started in 2005 and was re-launched in 2011, brings together Bosnia and Herzegovina, Croatia, Montenegro and Serbia in a joint effort to solve remaining displacement issues. While the focus of the 2011 Belgrade Declaration, which re-launched the Sarajevo process, is on housing solutions for displaced persons, at the time it was already clear that also other socio-economic reintegration issues, such as access to education and employment and various forms of social assistance, including pensions, would need to be addressed by the partner countries in order to achieve truly durable solutions for the displaced.²⁵⁴

In line with this, **in addition to national instruments dedicated to internal displacement, countries in the region have also developed certain legal and policy frameworks to strengthen IDPs' access to specific socio-economic rights**. For instance, **Azerbaijan** adopted the *Law on Social Protection of the IDPs and Persons Equated to Them* in 1999, which was complemented in 2004 by the *State Programme on Improvement of living conditions and increasing employment of refugees and IDPs*; **Georgia** also worked to develop a specific livelihood strategy for IDPs, and **Ukraine** adopted several instruments on social payments among other issues. Special importance is also given to the issue of protection of minorities: not only do the majority of IDP instruments address the issue of discrimination through a specific clause, but countries have also adopted several instruments to directly address the needs of certain minority groups such as in the *Strategy for the Integration of Roma, Ashkali and Egyptian Communities in the Republic of Kosovo (2009-2015)*²⁵⁵ or the *Strategy for social inclusion of Roma in the Republic of Serbia (2016)*.

Some countries have also taken steps to mainstream internal displacement in other sectoral legal and policy frameworks concerning human rights, economic development or regional development. Examples include the *National Strategy for the Protection of Human Rights in Georgia (2014-2020)*, which dedicated a section to the protection of the rights of IDPs; following the renewed hostilities in Nagorno-Karabakh, the government of **Azerbaijan** developed a *State Programme for Reconstruction and Return*, and the revision of normative acts including on housing, land and property that need to be amended in relation to the regained territories and the return of IDPs.

²⁵³ - In this sense, it is worth highlighting UNHCR's decision to refer to "IDP enrolment" instead of "IDP registration" as an approach to population data management, exactly to avoid the misconception that IDP registration would confer any kind of status, whilst still facilitating the collection of data at the individuals level.

²⁵⁴ - CoE, *Conference on Economic and Social Rights for Forcibly Displaced Persons During the Conflicts in Former Yugoslavia - Conference Report*, July 2018.

²⁵⁵ - References to Kosovo shall be understood to be in the context of Security Council Resolution 1244 (1999).

Similarly, two of the general policies on the development of the country adopted in 2021, “Azerbaijan 2020: Look into the Future” and “Azerbaijan 2030: National Priorities for Socio-Economic Development”, also give an important role to the return of the IDPs to the regained territories and their economic development.

Finally, it should be noted that while the Ukrainian IDP law stands out as the only instrument on internal displacement in Europe that refers to the issue of protection from forceful internal displacement,²⁵⁶ according to the ICRC Database on International Humanitarian Law,²⁵⁷ most European countries have incorporated a prohibition of forced displacement into their domestic law.

256 - Law No. 1706-VII, on Ensuring Rights and Freedoms of Internally Displaced Persons, November 2014, Articles 3 and 10.

257 - See https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule129#sectiona_W06KBGWY, last accessed 29 August 2022.



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Country in focus: UKRAINE

Overview of the Main Laws and Policies on Internal Displacement:

Specific to internal displacement:	Including internal displacement:
<p>National:</p> <ul style="list-style-type: none"> - <i>The Strategy 'On Integration of IDPs and Implementation of the Mid-Term Solutions as to Internal Displacement until 2024' and Operational Plan (2021)</i> - <i>The Law of Ukraine 'On ensuring rights and freedoms of internally displaced persons' (No.1706-VII) (2014)</i> 	<p>National:</p> <ul style="list-style-type: none"> - <i>National Recovery Strategy and Action Plan (2022)</i> - <i>National Strategy 'On Human Rights' (2021)</i> - <i>Action Plan to the National Strategy on Human Rights for 2021-2023 (2021)</i> - <i>National Strategy on de-occupation and reintegration of Crimea and the city of Sevastopol (2021)</i> - <i>Government Resolution No.819 on certain issues of providing citizens with affordable housing (2018)</i> - <i>The Law of Ukraine No.1207-VII "On Securing the Rights and Freedoms of Citizens and the Legal Regime on the Temporarily Occupied Territory of Ukraine" (2014 with amendments of 2022)</i>
	<p>Sub-national:</p> <ul style="list-style-type: none"> - <i>Strategy of the Economic Development of Donetsk and Luhansk Regions until 2030 (2021)</i> - <i>State targeted programme on peacebuilding in eastern regions of Ukraine (Resolution No.1071) (2017)</i>

Context

Conflict and violence have been the main causes of displacement in Ukraine since 2014, when hostilities in Crimea and in the east of Ukraine in Donetsk and Luhansk regions resulted in massive internal displacement. As of July 2021, the Unified IDP Database administered by the Ministry of Social Policy of Ukraine contained information about 1.5 million IDPs,²⁵⁸ many of them in protracted displacement. Despite several ceasefire agreements, hostilities in eastern Ukraine have continued since, leading to several further waves of displacement. The latest ceasefire was agreed in July 2020, but the situation deteriorated again in 2021.

The escalation of the international armed conflict in 2022 has caused civilian casualties and destruction of civilian infrastructure, forcing millions of people to flee their homes seeking safety, protection and assistance - one of the fastest-growing humanitarian and displacement emergencies in recent history, with an estimated 6.6 million IDPs and over 7 million refugees across Europe.²⁵⁹ Over the years, cases of internal displacement due to disasters such as wildfires and floods were also recorded. However, no public data is available on whether people displaced by disasters were officially registered as IDPs.

²⁵⁸ - This number also included people who continued residing in Crimea and non-government controlled areas of Donetsk and Luhansk regions (NGCA). This was caused by the need for people to register as IDPs in order to access social benefits, pensions and other essential services in the government-controlled area (GCA). In 2021, as part of the development of the 2022 Humanitarian Needs Overview, the Protection Cluster took a lead on reviewing the methodology of calculation of IDPs based on additional sources of information. This resulted in a new estimate of 854,000 IDPs, including 48,000 from Crimea and 806,000 from Donetsk and Luhansk regions.

²⁵⁹ - UNHCR, [Ukraine Operation Data Portal](#) (Last accessed: 31 Aug 2022).

National Framework on Internal Displacement

Following the outbreak of the conflict in 2014, several legal and institutional reforms were conducted in Ukraine through the adoption of new legislation as well as amendments to existing laws and by-laws. It is in this context that the parliament of Ukraine adopted in October 2014 the comprehensive *Law ‘On ensuring rights and freedoms of internally displaced persons’*. This law regulates the scope of rights and protection of the internally displaced persons as well as the requirements for their registration confirmed by an IDP certificate. The certificates indicate name, patronymic and surname of a person, as well as address in government-controlled area (GCA) where (s)he is registered as IDP. Marking of the address of IDPs residence in the IDP certificate was initially used as a confirmation of residence registration to access multiple public services, including administrative, documentation, financial, and social (less so in the current context, with multiple possibilities for digital access).²⁶⁰ The IDP law entrusts the Cabinet of Ministers with multiple responsibilities in response to displacement, including the coordination and supervision of the measures for IDPs, the monitoring of the situation with internal displacement and the establishment of “state comprehensive programs for support and social adaptation of IDPs”. The law also gives specific responsibilities to other executive bodies and in particular, to local authorities responsible for providing primary assistance and for registering IDPs. A Ministry for Temporarily Occupied Territories and IDPs was eventually established in April 2016²⁶¹ and went under several transformations in 2019 and 2020. As of March 2020, it was named the Ministry

of the Reintegration of the Temporarily Occupied Territories (MRTOT) and is headed by the Vice-Prime Minister, which gave it additional powers for horizontal coordination on issues related to conflict and displacement.

Although the IDP law was adopted during the tense phase of the conflict, when there was limited possibility to organize broad consultations with the displaced communities, UNHCR, OHCHR and local NGOs established by human rights activists displaced from Crimea and NGCA contributed to its elaboration. Later, these organisations became and remained actively engaged in advocating for and supporting the elaboration and the harmonisation of several by-laws, as well as introducing amendments to existing legal framework to adjust it to needs of IDPs in protracted displacement. The Council of Europe (CoE) and UN agencies also supported the government in ensuring adherence of the existing and draft Ukrainian legal frameworks to international standards and best international practices.²⁶² For example, the CoE carried out in 2016 a review of the national legislative and regulatory framework relevant to the human rights of IDPs, assessing its compatibility with international and regional standards. The study identified several gaps and grey areas in national legislation that required corrective legislative, administrative, or other regulatory measures in order to enhance and ensure the protection of IDPs’ rights. The findings also highlighted that in some areas, the lack of adequate financial and human resources undermined implementation of otherwise positive provisions.²⁶³

²⁶⁰ - The law was amended on several occasions including 28 December 2014, 5 March 2015, 24 December 2015 and 26 January 2015, to ensure correspondence with the international standards, particularly with regard to the IDP definition. More specifically, the objective was to guarantee that there were no undue differences in the treatment for persons displaced from Crimea and those from other regions, as well as that IDPs should not necessarily be citizens. Amendments introduced in 2022 resulted in adapting access to employment services to those IDPs that could not suspend their labour contracts after the war started and some other technicalities.

²⁶¹ - See: <https://www.pravda.com.ua/news/2016/04/20/7106169/> The Ministry was renamed into the “Ministry of Reintegration of Temporarily Occupied Territories” in February 2020.

²⁶² - UN agencies developed several briefing notes outlining gaps and recommending solutions, including on birth registration, access to pension, freedom of movement and IDP inclusion. Other modalities of law and policy engagement included participation in technical and advisory groups, submitting comments to draft legislation, conducting consultations with parliamentary and governmental stakeholders.

²⁶³ - CoE, *Enhancing the National Legal Framework in Ukraine for Protecting the Human Rights of IDPs*, 2016.

The implementation of the law was also operationalized through specific policies. Following initial assistance²⁶⁴ and a first national programme running from 2015 to 2017,²⁶⁵ the *National Strategy on the Integration of IDPs and Durable Solutions for Internal Displacement until 2020* was adopted in 2017. In support of its implementation, one year later an action plan was developed.²⁶⁶ These documents were essential to identify the main government priorities related to internal displacement as well as responsible bodies to implement each action. Both the strategy and the action plan also worked as reference points for regional and local authorities. However, lack of funding from the State budget hampered their implementation. The development of a new strategy was initiated by the MRTOT in summer 2020. Humanitarian actors and IDPs proactively engaged and contributed to it, and the final draft integrated most of their recommendations on opportunities for affordable housing for IDPs, gradual relocation from the IDP collective centres, local employment programmes, measures to support their businesses and their access to social protection. The *Strategy on Integration of IDPs and Implementation of the Mid-Term Solutions as to Internal Displacement until 2024 and Operational Plan* was eventually adopted in October 2021.²⁶⁷ The Strategy focused on six strategic goals: housing and property rights, employment and education, the right to social protection, access to health care, access to documentation and IDP integration to host communities.

The operational plan describes in detail how these goals will be implemented, particularly through local or regional programmes. As of the end of August, the Strategy was being reviewed to reflect the realities of the displacement situation across the country in 2022. The Ministry of Reintegration was taking the lead in the process, consulting widely on the issue.

The government also adopted other instruments at the sectoral level which include provisions addressing internal displacement, such as the *National Strategy for Human Rights*²⁶⁸ and its related Action Plan.²⁶⁹ In May 2021, the government also adopted the *Strategy of the Economic Development of Donetsk and Luhansk regions*, including provisions to improve service provision that would allow IDPs to return to the areas near the contact line after the security situation stabilises. Special integration programmes were also approved in the past in Dnipropetrovsk, Luhansk, Donetsk and Ternopil regions.²⁷⁰ At the time of the invasion, several regions were developing their own documents, while existing ones will have to be updated in light of the revised national IDP Integration strategy once it is updated, to ensure their effective implementation and full enjoyment by the IDPs of their rights wherever they might choose to settle.

²⁶⁴ - See Order N°505 “On providing monthly targeted assistance to internally displaced persons to cover living expenses, including housing and communal services.”

²⁶⁵ - See Resolution N°1094 “On Approval of the Comprehensive National Programme for Support, Social Adaptation and Reintegration of Citizens of Ukraine Internally Displaced from the Temporarily Occupied Territory of Ukraine and Anti-Terrorist Operation Conduct Area or Other Regions of Ukraine for the period until 2017 (and Action Plan)”.

²⁶⁶ - See *Action Plan on implementation of the Strategy “On the integration of IDPs and durable solutions for internal displacement until 2020”* adopted in 2018.

²⁶⁷ - See *Order No. 1364-r*.

²⁶⁸ - Adopted in March 2021, it contains a dedicated section on the rights of IDPs and defines key strategic directions of development – finding durable solutions (with a focus on housing and employment), ensuring social benefit and pension payments, and IDP participation at the local level.

²⁶⁹ - Adopted in July 2021, it envisages improvement of procedures on providing IDP targeted assistance in the context of the administrative decentralisation reform, as well as of procedures on compensation for destroyed housing, compensation to civilians injured due to the conflict and provision of medical assistance and psychological rehabilitation to conflict-affected civilians (including children).

²⁷⁰ - For example *The Regional Program of Support and Integration of Internally Displaced Persons in the Donetsk Region for 2019-2020*. See [NRC, Mapping of the Regional Integration Policies for IDPs, 2021](#).



Middle East

Context:

Protracted situations of armed conflict in several countries of the Middle East have displaced millions over the years. As a result, some of the highest numbers of internally displaced persons worldwide are found here, particularly in Syria where over one third of the country's total population was internally displaced as of December 2021 - almost 6.8 million people.²⁷¹ Yemen has the fourth largest IDP population due to conflict in the world with

an estimated 4.3 million IDPs,²⁷² while almost 1.2 million people also remain internally displaced in Iraq.²⁷³ Internal displacement in the region also occurs in the context of disasters and the adverse effects of climate change, often impacting people already displaced. Over 223,000 new displacements were recorded in 2021 due to disasters in the Middle East, mostly triggered by severe drought, flash floods and storms.²⁷⁴ Against this background

²⁷¹ - UNHCR, *Global Trends Report 2021*, p. 3.

²⁷² - UNHCR, *Yemen Fact Sheet*, June 2022.

²⁷³ - UNHCR, *Iraq Fact Sheet*, August 2022.

²⁷⁴ - IDMC, *GRID 2022*, p. 43.

there is no specific regional framework or mechanism to address internal displacement, although some initiatives have taken place in recent years. For example, in 2020 the Organisation of Islamic Cooperation (OIC) organized with the GP20 initiative a Regional Exchange on Preventing and Addressing Internal Displacement in the Middle East and North Africa.²⁷⁵ In March 2018, the Arab Ministers of Foreign Affairs Council adopted *Resolution No. 8244 on “Supporting Internally Displaced Persons in Arab Countries and Displaced Iraqis in particular”*. An additional clause was added in September 2018 tasking the Arab Ministers of Social Affairs Council and the Arab Ministers of Health Council to design a plan to launch an Arab project that focuses on providing humanitarian support for IDPs in the Arab countries in general, and Iraq in particular, through self-reliance and ensuring effective participation in re-building their cities. In September 2019, another resolution assigned the General Secretariat of the League of Arab States (LAS) with forming a joint committee of experts and representatives of Ministries of Interior and Justice to study the proposal of the Republic of Iraq on developing an Arab Convention on assisting and protecting internally displaced persons in the Arab region. UNHCR continues to work closely with the LAS and its member states following up on these resolutions, including by providing capacity development opportunities for them.

In relation to displacement in the context of disaster and the adverse effects of climate change, an updated version of the Arab Strategy for Disaster Risk Reduction 2030 was adopted by the LAS in April 2018.²⁷⁶ The document maintains acknowledgement of “demographic changes and migration trends” and “secondary risks associated with population displacement [...] that pose multiple

challenges on a wider scale than ever before, and adversely affect the capacities of Arab countries to reduce and manage disaster risks”. The Fifth Arab Regional Platform for Disaster Risk Reduction (DRR) held in Morocco in 2021 led to the adoption of a political declaration in this area, a set of renewed stakeholders’ voluntary action statements on implementation of the Sendai framework and Arab Strategy for DRR 2030, as well as a Prioritized Plan of Action (2021-2024) for the Arab Strategy for DRR 2030 to accelerate the implementation of the Sendai framework in the Arab Region. This platform meeting was the first time that a special session was dedicated to “Climate Risk and Displacement in the Arab Region: Challenges and Opportunities”, where stakeholders shared their perspective on the issue.²⁷⁷

National Legal and Policy Developments

Despite being significantly affected by internal displacement, countries in the Middle East count with a more limited number of legal and policy instruments in this area compared to other regions. **Only two countries so far have adopted comprehensive frameworks specifically dedicated to the protection and assistance of IDPs in the region** as of August 2022: **Iraq** (see country page) and **Yemen**.

The Government of **Yemen** adopted its *National Policy for Addressing Internal Displacement in the Republic of Yemen* in 2013. It was developed under the leadership of the then Prime Minister, to demonstrate the country’s commitment in assisting and finding durable solutions for IDPs and prioritising such efforts during Yemen’s transitional process at the time. The *Transitional Program for Stabilization and Development in Yemen 2012-2014* also recognized

²⁷⁵ - See [event report](#).

²⁷⁶ - Yonetani M., 2018, *Mapping the Baseline*, p. 44.

²⁷⁷ - The session was led by the Arab Network for Environment and Development (RAED) in collaboration with the Norwegian Refugee Council (NRC). Representatives from Morocco, the LAS, the Internal Displacement Monitoring Centre (IDMC) and the MENA Red Crescent shared their perspectives on the issue. See PDD [here](#).



that strengthening the national legal and policy framework for vulnerable persons including IDPs was essential to improve not only their lives, but also can contribute to the stability of Yemen overall.

This framework was prepared further to a decision of the Prime Minister on 17 November 2012 commissioning the Ministry of Foreign Affairs, the Ministry of Planning and International Cooperation, and the Executive Unit for IDPs to develop a national policy for resolving internal displacement, with the support of UNHCR. The document was the result of a highly consultative process engaging relevant government ministries and offices, local authorities, civil society, host communities, UN agencies, NGOs, donors and most importantly IDPs and returnees themselves. The policy sought to comprehensively address and resolve internal displacement in Yemen due to all causes (conflict, violence and human rights violations as well as disasters) through three goals:

preventing future involuntary displacement; assisting and protecting IDPs and host communities; and finding safe and lasting solutions for IDPs, including by supporting their return and the reconstruction of conflict-affected areas. Priority actions for achieving each of these goals were identified, as were coordination arrangements within the Government - particularly the creation of a Supreme Committee for IDPs - as well as collaboration with civil society and the international community. Unfortunately, this policy was never effectively implemented due to limited government capacity and resources, as well as the deterioration of the situation with the flaring up of the armed conflict in 2014. As a result, a review of the IDP policy has been called for it to be adapted to the current situation in the country, the evolving needs of IDPs, returnees and host communities, together with the development of targeted strategies to support durable solutions.²⁷⁸

278 - Ministry of Planning & International Cooperation, *Yemen Socio-Economic Update- Issue 68, Internal Displacement in Yemen*, January 2022.

The situation in Yemen changed after the 2015 crisis, as national-level efforts to respond are divided along conflict lines. On 18 November 2019, a decree²⁷⁹ of the President of the Supreme Political Council established the Supreme Council for the Management and Coordination of Humanitarian Affairs and International Cooperation (SCMCHA) in the northern areas under control of the De Facto Authorities (DFA, also referred to as the Ansar Allah/Houthis), responsible for the humanitarian response and overseeing humanitarian actors' access to displaced and host populations. It also takes over the IDP-related functions of the Executive Unit for IDPs that was set up jointly with the UN prior to the conflict. Another change impacting IDPs in the north concerns the 2021 amendments to the 2006 Landlord and Tenant Relationship Law legislated by the DFA, which added three layers of tenure protection for tenants. This added protection is interim and its enforceability is insofar as the current exceptional circumstances continue. The first layer of protection precludes landlords from evicting tenants as long as tenants are paying rent and the property remains used for rental purposes. The second layer of protection prevents landlords from increasing rent. The third layer of protection precludes landlords from evicting tenants who are unable to pay rent but possess sufficient guarantees. The interpretation of "guarantees" is unclear and research is needed to ascertain how it is interpreted in courts. In some locations in the south, IDPs coming from the north are still facing restrictions primarily as they are only allowed to obtain temporary ID cards specifically designated for IDPs as an identification card for humanitarian assistance purposes and for facilitating

freedom of movement when crossing military checkpoints. However, these cannot substitute or attain the status of a national ID card.

In the **Syrian Arab Republic**, although there is no specific mention of internal displacement in the Syrian legislative framework, several laws and practices are relevant to the many problems faced by the IDPs in the country in accessing rights and services. During the last few years, a number of legal reforms have taken place to respond to the legal challenges encountered by internally displaced Syrian citizens particularly in relation to civil documentation as well as housing, land and property. In 2019, for example, two laws were issued amending the *Personal Status Law*, providing solutions to major challenges encountered by Syrian citizens in relation to marriage, divorce, custody and inheritance.¹⁸⁰ In addition, two amnesty decrees were issued in 2019 and 2021²⁸¹ exempting Syrian citizens who failed to register their vital civil events or obtain their civil personal documents from the fees and fines imposed on the delayed registration of such events. Finally, in spring 2021, *Law No.13/2021* amended the Civil Status Law²⁸² with the aim to facilitate the Syrian citizens' access to civil documentation.²⁸³ The amendments included, inter alia, the digitalization of the civil registry system, the possibility of registering vital events and obtaining civil documentation at any civil registry office throughout the country, the extension of the registration period for vital events, and the possibility for family members up to the fourth degree to register vital events and obtain documents on behalf of individuals in their family.

²⁷⁹ - Republican Decree No. (201) of 2019.

²⁸⁰ - The new laws also brought more equality on gender related issues and safeguarding women and children rights, such as increasing the age of marriage for minors, increasing the age of custody for boys similar to girls and enquiring the mother's approval for her children's departure out of the country with their father.

²⁸¹ - Legislative Decrees No.11 of 2019 and 7 of 2021.

²⁸² - Legislative Decree No.26 of 2007.

²⁸³ - For example by increasing the legal timeframes to register civil events without fines or fees- though also tremendously increasing the penalties related to delay in civil registration, or establishing One Syria Registry concept to enable Syrian citizens and alike to register events and obtain their documents wherever they reside and without the need to approach the civil registry in the area of origin.

However, the new law did not eliminate all challenges in obtaining documents, including in terms of requirements (such as Mukhtar statements or medical reports) or penalties.²⁸⁴

With regards to housing, land and property, almost one third of the overall Syrian legislation that directly or indirectly relates to this subject has been adopted since 2011 (over 35 new laws and regulations). According to the World Bank, the amendments made to the legislative and regulatory framework concerning land registration, tenancy, zoning and planning have had the overall effect of weakening the security of tenure throughout Syria, particularly affecting displaced persons. This is also likely to further complicate the situation for refugees and returnees seeking to access their property.²⁸⁵ While some HLP provisions may potentially benefit IDPs,²⁸⁶ others do not sufficiently consider the HLP rights of displaced persons. According to observers, the government has also used property laws, such as Decree No. 66 of 2012 and Law No. 10 of 2018, to expropriate property from individuals in areas it deems disloyal or from individuals 'broadly perceived to be associated with opposition groups'.²⁸⁷

In the context of the protracted protection crisis affecting the West Bank, including East Jerusalem, around 0.75 million Palestinians (21 percent of West Bank residents) experience or are at risk of conflict, violence, forcible displacement/transfer and are in need of humanitarian assistance.²⁸⁸

Despite Israel's protracted military occupation of the **occupied Palestinian territory**, in many instances marked by demolitions and forced evictions of Palestinians from their houses and properties, triggering displacement and in some cases raising concerns of possible forcible transfer,²⁸⁹ there is no domestic framework specifically addressing internal displacement in the occupied Palestinian territory. While there is an array of Israeli legal norms and practices that have facilitated the confiscation of property of Palestinian refugees and internally displaced persons²⁹⁰ over the years,²⁹¹ two laws are highlighted here: the *Absentee Property Law and the Legal and Administrative Matters Law*. The *Absentee Property Law*,²⁹² adopted by Israel in 1950, defines an "absentee" as any person who, at any time between 29 November 1947 and the day on which "it shall be declared that the state of emergency shall cease to exist", was residing in any of the countries listed in the Absentee Property Law (Lebanon, Egypt, Syria, Saudi Arabia, Jordan, Iraq, Yemen or parts of Palestine that are outside the 1948 borders of the State of Israel). It further applies to any person who had or received a citizenship or nationality of those countries during this period and anyone who merely departed for a short time before 1 September 1948, from his/her ordinary place of residence in Palestine to another place in Palestine that was held at that time by anyone fighting against Israel and then returned to his/her home shortly afterwards. Since the declaration of a state of emergency in Israel is still valid, the Absentee Property Law continues to apply to this day to those defined as "absentee."²⁹³

²⁸⁴ - For more information, please refer to: UNHCR/NRC (2021), *Legal Identity and Housing, Land and Property Rights of Syrian Refugees from a Durable Solutions Perspective. Challenges and opportunities*, p. 8.

²⁸⁵ - *Ibid* :10

²⁸⁶ - Law No.33/2017 for example was issued to respond to the need to restore lost and damaged property documents through specific administrative procedures and judicial processes, though some challenges remain regarding specific preconditions (e.g. in case no official documents are available), timeframes or conflict resolution mechanisms.

²⁸⁷ - See: UNHCR, *International Protection Considerations with regard to people fleeing the Syrian Arab Republic*, Update VI, March 2021, pp. 49-50, 51 (and sources cited therein).

²⁸⁸ - OCHA, *Humanitarian Needs Overview 2022, occupied Palestinian territory*.

²⁸⁹ - Protection Cluster oPt, *Protection Analytical Update*, August 2022, p. 2.

²⁹⁰ - For more information and a socio-historic overview of who the internally displaced Palestinians inside Israel are, see Badil Resource Centre, *Palestinian Internally Displaced Persons inside Israel: Challenging the Solid Structures*, February 2003.

²⁹¹ - See for example Legal Task Force, Protection Cluster- Palestine, *Legal Developments & Trends 1 January 2022 – 30 June 2022*.

²⁹² - *Absentee Property Law* of 1950.

²⁹³ - See NRC, *Legal Memo The Absentee Property Law and its Application to East Jerusalem*, February 2017.

The Absentee Property Law provides that if a person is an “absentee”, any property that he/she owns, or has a right to, located inside Israel automatically becomes “absentee property.” The ownership rights to “absentee property” are automatically vested in the Custodian of Absentee Property. Vesting such rights in the Custodian of Absentee Property is not contingent on any legal action on the part of the Custodian of Absentee Property or registration of the property in its name. The Custodian of Absentee Property does not have to register the absentee property to complete the transfer and does not even have to know about the absentee property to have rights to it.

A well-known issue in this context is the problem of “present absentees,” or those individuals who departed to a particular place and consequently became absentees, returned after a short while to Israel and even became Israeli citizens. Under the Absentee Property Law, their properties were still considered “absentee properties” vested in the Custodian of Absentee Property, because they were outside the borders of the State of Israel during the relevant time frame, as defined in the law. Shortly after Israel’s occupation of the West Bank and Gaza and the illegal annexation of East Jerusalem in 1967, Israel issued a decree in accordance with Article 11b of the Law Administration Ordinance from 1948 applying Israeli law to East Jerusalem. In this way, East Jerusalem was subjected to the Absentee Property Law in such a way that all the properties in East Jerusalem of the residents of East Jerusalem, the West Bank and Gaza are absentees’ property even if their owners were present in the area under Israeli jurisdiction. Of significance is also the 2015 decision of the Israeli Supreme Court affirming the applicability of the Absentee Property Law to properties in occupied East Jerusalem belonging to Palestinians living in the West Bank.²⁹⁴

Israel also enacted the *Legal and Administrative Matters Law* in 1970,²⁹⁵ which enables Jews who fled or were forced to flee out of East Jerusalem and who allegedly owned land and/or property in East Jerusalem before the establishment of the State of Israel in 1948 to pursue claims to recover their land and property. The law, however, does not apply to Palestinian citizens of Israel or residents of East Jerusalem who fled or were forced to flee from their homes in West Jerusalem or other parts of Israel under the same circumstances, impeding their return to their houses, properties and lands. Consequently, many “absentee properties” in East Jerusalem ultimately found their way into the hands of settler organisations due to the extensive powers vested with the Custodian of Absentee Property, despite their owners residing in the West Bank or Gaza. In the West Bank where the Absentees’ Property Law does not apply, absentee property is governed by the Israeli Military Order regarding Abandoned Property in Judea and Samaria Area (No. 58) (1967), which applies to property belonging to a person who fled or was forced to flee the West Bank in 1967. This order provides that ownership is not expropriated, but rather managed in trust by the Israeli Civil Administration until the absentees return to the West Bank.²⁹⁶

In this context, the work of humanitarian and human rights partners in oPt focuses on monitoring and documenting the risk of forcible transfer (including through an analysis of settlement related activities, ranging from settler violence through retroactive legalisation of settlement outposts, land takeover and expropriations, with the objective to mitigate their effect on Palestinians), as well as on providing legal support to those affected by, or at risk of, forcible transfer, demolitions, forced evictions and displacement, and revocation of residency rights through a multitude of legal aid services.²⁹⁷

²⁹⁴ - See CA 5931/06, Daoud Khatab Hossein and others v. the guardian of the assets of absentees and others, issued on April 15, 2015. See also *Israeli Supreme Court upholds continued confiscation of occupied East Jerusalem properties - Adalah*.

²⁹⁵ - *Legal and Administrative Matters Law* of 1970.

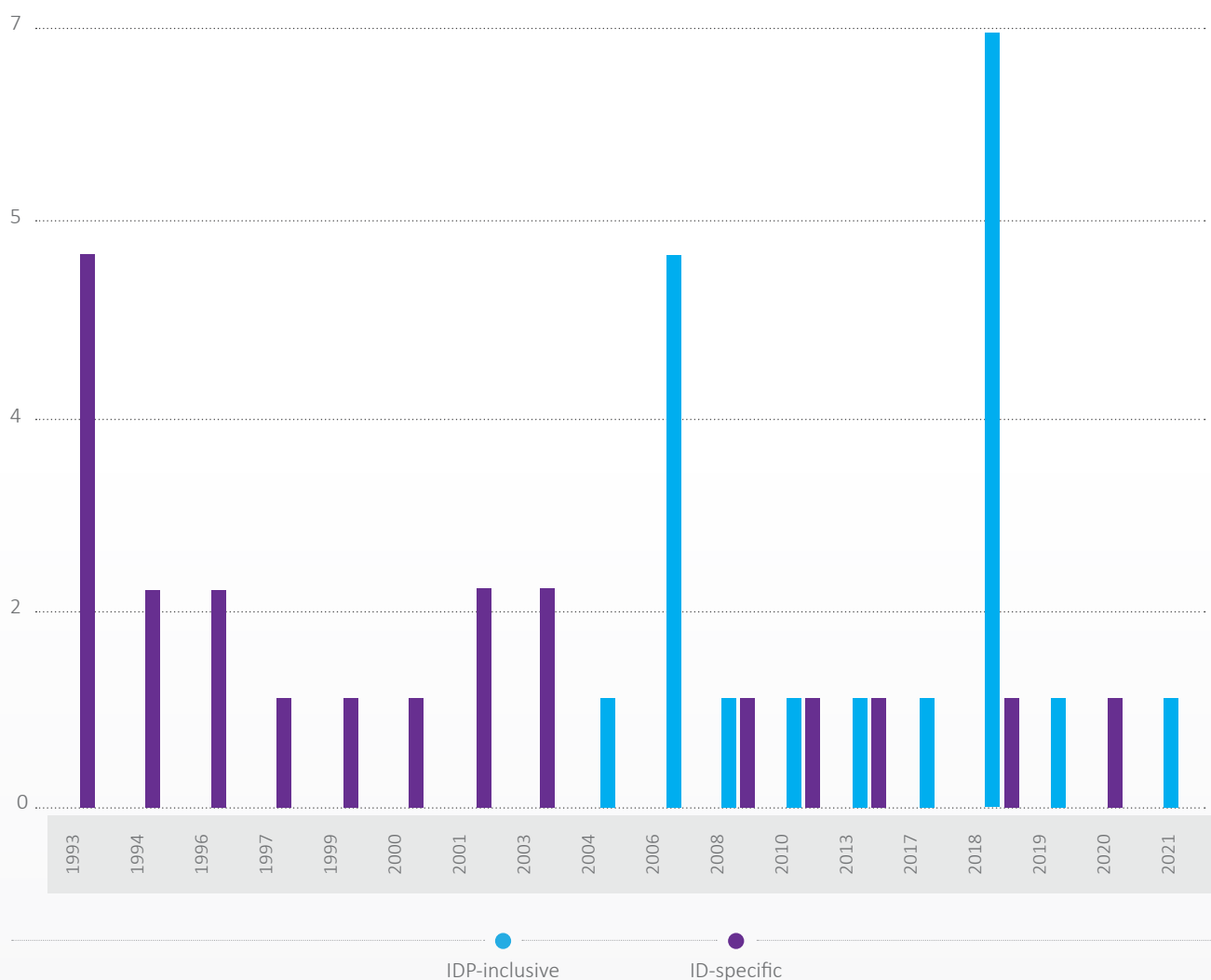
²⁹⁶ - See Yesh Din, *Position paper on Renewing settlement of title in Area C in the West Bank*, April 2021.

²⁹⁷ - Protection Cluster oPt, *Protection Analytical Update*, August 2022, p. 13.

Finally, the experience of **Lebanon** should also be mentioned. Even in the absence of an overall framework on internal displacement, the country adopted in 1993 the *Act 190 on Displaced Persons* creating a Ministry for Displaced Persons Affairs that was responsible for dealing with issues affecting the displaced in all Lebanese regions and ensuring their return to and socio-economic reintegration in their areas of origin. Internal displacements in Lebanon were not continuous but occurred in separate periods of the civil war (1975-1990) due to internal strife,

Israeli military invasions and fighting between Syrian forces and Lebanese militias. It is estimated that at its height up to one million people were displaced.²⁹⁸ The Act 190 was accompanied by several other legal instruments adopted the same year, related for example to the establishment and functioning of the Central Fund for Displaced Persons, as well as other specific legal and policy measures in relation to housing, land and property issues.²⁹⁹ These frameworks all appear as IDP-specific documents in the graph below.

Trends in IDP Related Instruments - Middle East Region, 1993 - 2021:



298 - NRC, *Global IDP Database, Lebanon Country Profile*, p. 5.

299 - See UNHCR-TTLP Global Database on Law and Policy on Internal Displacement, Lebanon Country Page, "Other instruments".

Most programmes supporting IDPs and returnees had ended by the end of 2003. In response to the new wave of displacement resulted from the “33-day war” between the Israeli army and Hezbollah between July and August 2006, the government established the High Relief Commission to coordinate national and international humanitarian assistance

and, following the end of hostilities, it launched a national reconstruction plan which aimed to ensure the prompt return of IDPs to their areas of origin. Reportedly, within four days of the ceasefire around 90 per cent of IDPs moved back to their areas of origin.³⁰⁰

Country in focus:
IRAQ

Overview of the Main Laws and Policies on Internal Displacement:

Specific to internal displacement:	Including internal displacement:
<p>National:</p> <ul style="list-style-type: none"> - <i>National Plan for Getting the Displaced Back to their Liberated Areas</i> (2021) - <i>Principled Returns Framework</i> (2018) - <i>National Policy on Displacement</i> (2008) 	<p>National:</p> <ul style="list-style-type: none"> - <i>National Development Plan (2018-2022)</i> (2018) - <i>Strategy for the Reduction of Poverty in Iraq (2018-2022)</i> (2018) - <i>Ministry of Migration and Displacement Law (Law N°21 of 2009)</i> (2010) - <i>Iraq National Housing Policy</i> (2010)

300 - IDMC, *Lebanon Country Overview*, 30 December 2010.



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Context

Iraq has a long history of internal displacement related to insecurity, sectarian violence and armed conflict. Five years after the end of a large-scale offensive against the self-proclaimed Islamic State in Iraq and the Levant (ISIL), which triggered the displacement of about 6 million people between 2014 and 2017, the number of returns has outnumbered the number of new displacements. By June 2022, there were 4.9 million returnees and 1.1 million internally displaced persons in Iraq.³⁰¹ As a result, the protection of returnees and their sustainable reintegration is one of the key priorities in the country. At the same time, in 2022 Iraq has continued to be also affected by slow- and sudden-onset disasters leading to displacement including water scarcity, droughts and sandstorms, which have affected particularly the central and southern governorates.

National Framework on Internal Displacement

In July 2008, following a process led by the Ministry of Migration and Displaced (MoMD) and the Kurdistan Regional Government (KRG) and supported by the international community, wide consultations were held with many stakeholders at the local, regional and national levels in Iraq, leading up to the government adopting a *National Policy on Displacement*. In terms of its scope, this policy covers internal displacement due to all causes including disasters, as it adopts an IDP definition in line with the Guiding Principles. The policy addresses the human rights of IDPs as well as returnees. Its provisions relate to the protection from displacement (including the prohibition of forced eviction, destruction of houses and agricultural areas and expropriation or confiscation of land), protection and assistance during displacement as well as durable solutions. The policy refers to all three solutions

options, though in practice there was over the years an emphasis on a policy of return over integration or settlement elsewhere in the country.³⁰² Initially created in 2003 by Order 50 of the Coalition Provisional Authority, the MoMD was established by law in 2009 as the focal point on assistance, provision of services and seeking solutions for the seven categories of populations outlined in the law, including “*displaced Iraqis who were coerced or forced to flee their homes or left their usual place of residence inside Iraq to avoid the effects of armed conflict, circumstances of generalized violence, human rights violations, natural or man-made disasters, the arbitrary use of power by the authorities or due to development projects*” in coordination with other relevant government ministries.³⁰³

Following the most recent wave of displacement triggered by the conflict against ISIL, the policies of the Government of Iraq (GoI) have been instrumental in promoting returns. However, despite the government’s adoption in 2018 of the *Principled Returns Framework* that was aimed to guide IDPs’ return in line with international standards, several issues were reported. These included premature, coerced and forced returns; blocked returns, as well as widespread evictions and secondary displacement in the context of sudden closure and consolidation of IDP camps.³⁰⁴ Against this background, the Ministry of Planning (MOP) and MoMD released in November 2020 a *National Plan for Getting the Displaced Back to their Liberated Areas*, which is currently being implemented. Area-based coordination groups have been created under the Durable Solutions Task Force and established in key return areas in Iraq; as of August 2022, action plans were under finalisation and further clarifications on authorities’ commitments in terms of service provisions to the returning populations were still needed.

301 - IOM, *IRAQ DTM*.

302 - IOM, *Internal Displacement in Iraq: Barriers to Integration*, 2013, p. 16.

303 - *Law No. 21 of 2009*.

304 - See *A/HRC/44/41/Add.1*, 2020, paras. 27-28.



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Issues of internal displacement have also been mainstreamed in other key policy and strategy documents at the national and local level. Most importantly, the *National Development Plan's* (2018-2022) third strategic goal includes to “accomplish recovery of the communities affected by displacement and insecurity.” In line with the national development plan and the country’s *Poverty Reduction Strategy*, the *Provincial Response Plans* (2018-2022) adopted at the local level in Anbar, Nineveh, Diyala, Kirkuk, Salah al-Din Governorates also considered the social and economic profile of IDPs, as they aim to address key challenges faced by different population groups including IDPs.

Several initiatives affecting IDPs’ rights have also been developed at the sectoral level. Among them was the simplification of the procedures and processes for people affected by war operations, military

errors, and terrorist actions to submit compensation claims. This was facilitated by a second amendment of Law 20 of 2009 (and two bylaws), supported by the Central Compensation Committee and Martyr’s Foundation of Iraq among other stakeholders. The Iraqi government approved the amended law in February 2020³⁰⁵ (and two bylaws) and supported its operationalization through an additional by-law establishing its implementation mechanisms adopted in April of the same year. Despite the amendments, implementation continues to vary from the legal requirements across different governorates. In 2021, the Prime Minister’s Office and the Iraqi Ministry of Justice also formulated in close collaboration with UN-Habitat and the HLP AoR a legal decree to formalize occupancy certificates for Yazidis’ land rights. As of August 2022, the adoption of this legal decree was still pending, and it is hoped that it will be endorsed by the Council of Ministers as a matter of priority.

³⁰⁵ - Law 2 of 2020; the amendments of the law were supported by the HLP AoR (see [Advocacy Note highlighting the main challenges related to the existing compensation scheme in Iraq](#)).

The *Yazidi (Female) Survivor Law* was also passed in 2021, which is a step forward in addressing ISIL crimes against the Yazidis, Christians, Turkmens and Shabbak. It is hoped that remaining gaps in the law may be addressed through further amendments or additional by-laws. In particular, the law does not address the issue of children conceived and born out of conflict-related rape.

With regard to access to civil and identity documentation, despite some effective strategies adopted by legal protection actors since the end of the conflict and significant tangible results, IDPs' and returnees' right to obtain documentation continues to be denied due to political, physical, administrative or

financial barriers. Families with perceived affiliation to extremist groups and children with missing, detained or deceased fathers are among those most discriminated against and marginalized in relation to access to their right to civil documents.³⁰⁷ Changes at the institutional and policy level are needed to address the scale of the issue such as the issuance of specific directives by the High Judicial Council, Ministry of Interior and the MoMD to clarify that acquiring identity and civil documents does not require prior security clearance or tribal denunciation processes, or to reduce administrative requirements and authorize displaced persons to obtain documentation at their location of displacement or anywhere else within the country in line with the Iraqi Constitution.

Asia

Context:

Across the wide and diverse Asian region, internal displacement is overall characterised by its link with disasters such as in China, the Philippines or Vietnam, in which 12.5 million internal displacements were recorded just in the year 2021.³⁰⁷ Moreover, in many countries displacement is also associated with armed conflict and violence, which had prevented until recently any large scale return in Afghanistan and over time stalled any achievement of durable solutions in places such as Afghanistan and Myanmar, the Asian countries with the largest numbers of IDPs due to conflict - respectively estimated at 3.4 million³⁰⁸ and 1.3 million.³⁰⁹ Despite the presence of the Association of Southeast Asian Nations (ASEAN)

and the South Asian Association for Regional Cooperation (SAARC), in Asia, unlike other regions, there is presently no specific regional structure or mechanism with a focus on internal displacement due to all causes. At the same time, in line with the fact that disasters cause most of the new displacements in these regions every year, an Asia-Pacific Disaster Displacement Working Group meets as part of the Issue Based Coalition-Resilience. Co-chaired by IOM and UNDRR, it constitutes an important platform to address issues and share good practices with key stakeholders on preventing, responding to, and resolving displacement from both rapid and slow-onset disasters.

³⁰⁶ - See: Protection Cluster Iraq, *Protection analysis report. Right to Identity and civil documentation*, 2021.

³⁰⁷ - IDMC, *GRID 2022*.

³⁰⁸ - As of June 2022, see *UNHCR Operational Data Portal*.

³⁰⁹ - As of September 2022, see *UNHCR Myanmar Emergency Overview Map as of 19 September 2022*. Out of the estimated 1,319,800 IDPs, about 330,400 are IDPs displaced prior to 1 February 2021, while the others have been displaced since then.

National Legal and Policy Developments

Since the 1990s, 20 legal and policy instruments specifically addressing internal displacement have been adopted in this region across 11 countries. **Tajikistan**³¹⁰ and **Kyrgyzstan**³¹¹ are the only two countries that adopted laws on internal displacement, respectively in 1994 and 2002. **Tajikistan** was one of the first countries in the world to enact such a law, which precedes the publication of the Guiding Principles. It used the language of “forced migrants”,³¹² as did a few other countries resulting from the dissolution of the Union of Soviet Socialist Republics at the time (e.g. Azerbaijan and Russia). The law created a legal status for IDPs, to be granted or revoked; it clarified the entitlements that IDPs had on that basis in terms of assistance, including with a focus on restoration of housing, land and property rights, as well as the role of state and local authorities (particularly the Central Department for Refugees of the Labour and Employment Ministry, identified as national focal point). It should be noted that Tajikistan’s Law No. 881 of 1999 on Migration also includes within the scope of its application the situation of “ecological migrants”, defined in its Article 1 as “people forced to leave their houses because of ecological disasters” (a terminology which is also used in a few other countries across, for example **Georgia**). In this context, the adoption of a long advocated IDP bill in the Philippines could provide an important new example of comprehensive law in line with international standards and more recent policy approaches on issues around prevention, protection and solutions for IDPs.

A total of six national policies on internal displacement due to different causes were also adopted in the region over the past two decades: by **Afghanistan** (in 2013³¹³ and 2017³¹⁴), **Indonesia** (in 2001³¹⁵ and 2018³¹⁶), **Nepal** (2007)³¹⁷ and **Sri Lanka** (2016).³¹⁸ In addition, nine other IDP-specific instruments including strategies and action plans were adopted by countries in the region. In some cases, relevant legal and policy frameworks were also developed at the sub-national level; for example, the Government of the **North Western Frontier Province of Pakistan** adopted in 2009 a Return policy framework to support the return and reintegration of IDPs in line with international standards.³¹⁹

Many of these instruments have been the result of long processes, with governments benefitting from the technical support of international partners: for example, the first national IDP policy in **Afghanistan** was approved in November 2013 after having been nearly two years in the making. The process was led by a task force that included the Ministry of Refugees and Repatriation (MoRR) and the Afghanistan Natural Disaster Management Authority. The task force established a Policy Working Group to support MoRR, organized a visit from the UN Special Rapporteur on the Human Rights of IDPs, engaged an external IDP expert to assist in the work and held a two-day national consultative workshop in July 2012, followed in September 2012 by a first round of provincial consultations. In October 2012, ProCap³²⁰ seconded

310 - Tajikistan: *Law on Forced Migrants (1994)*, 20 July 1994.

311 - Kyrgyzstan: *Law No.133 on Internal Migration (2002)*, July 2002.

312 - Article 1 defines forced migrants as: “A forced migrant is a citizen of the Republic of Tajikistan or a person permanently living in the territory of the Republic, forced to leave his permanent residence in the territory of the Republic of Tajikistan because of violence committed against him or genuine danger of being persecuted for reasons of race, nationality, place of origin, certain social group, [or] mass disturbance of the public order in his place of permanent residence which is a considerable infringement of human rights. A person who has committed a crime against humanity or other premeditated crime cannot be declared a forced migrant.”

313 - Afghanistan: *The National Policy on Internally Displaced Persons*, 25 November 2013.

314 - Afghanistan: *Policy Framework for Returnees and IDPs (2017)*, 1 March 2017.

315 - Indonesia: *National Policies on the Handling of Internally Displaced Persons/Refugees in Indonesia*, 1 January 2001.

316 - Indonesia: *BNPB Regulation N°3 on the Handling of Displaced Persons in Disaster Emergency*.

317 - Nepal: *National Policies on Internally Displaced Persons, 2063 (2007)*, 1 January 2007.

318 - Sri Lanka: *National Policy Framework on Durable Solutions*, 2016, August 2016.

319 - Pakistan: *Return policy framework of the Northwest Frontier Province, 2009*, 11 July 2009.

320 - See: <https://www.humanitarianresponse.info/en/coordination/procap/procap-who-we-are>.



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a Senior Protection Officer to UNHCR to serve as IDP Advisor to MoRR, to assist in the consultation process and in drafting the policy.³²¹ Unfortunately, many of the challenges faced in drafting the policy (which reflected wider challenges in terms of law-making and policymaking in Afghanistan more generally) ended up being similar in nature to the challenges its implementation met (e.g. in terms of government's capacity and engagement, or participation of IDPs and of a wider array of relevant stakeholders). The 2017 Policy Framework on Returnees and IDPs, under the Displacement and Return Executive Committee (DiREC) led by the Chief Executive, built on its predecessor and tried to address some of these

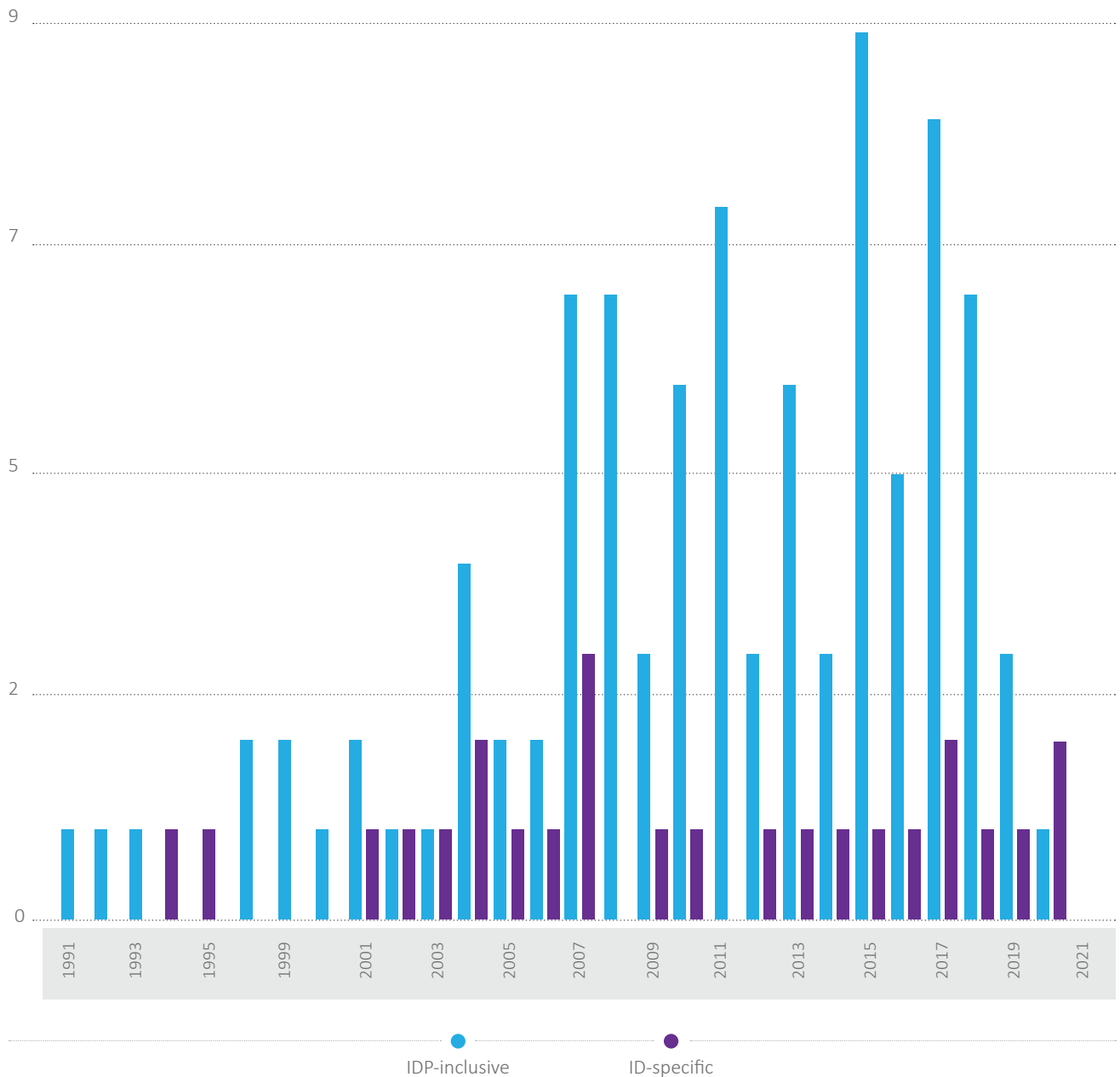
issues in the context of a surge in refugee returns from Pakistan in 2016, which - coupled with the numbers of protracted IDPs - put significant stress on the humanitarian response and made even more evident the need for a holistic and non-fragmented response. The implementation of this policy framework was inadequate due to a challenging political context in Afghanistan, as a result of which the DiREC was suspended. It is hoped that despite the changes that occurred in the country in 2021, efforts made over the past decade on the assistance and protection of IDPs in the country will continue to receive the attention they need in this new context. It is hoped that despite the deterioration of the situation in **Myanmar** and

³²¹ - Wiseberg, *An IDP Policy for Afghanistan: from draft to reality*, FMR 46, May 2014.

the significant protection and assistance challenges faced by IDPs, there will be opportunities to work towards the targeted implementation of the *National Strategy on Resettlement of Internally*

Displaced Persons and Closure of IDP Camps adopted in 2019 - a strategy which was developed with support of the international community and is in line with international standards.

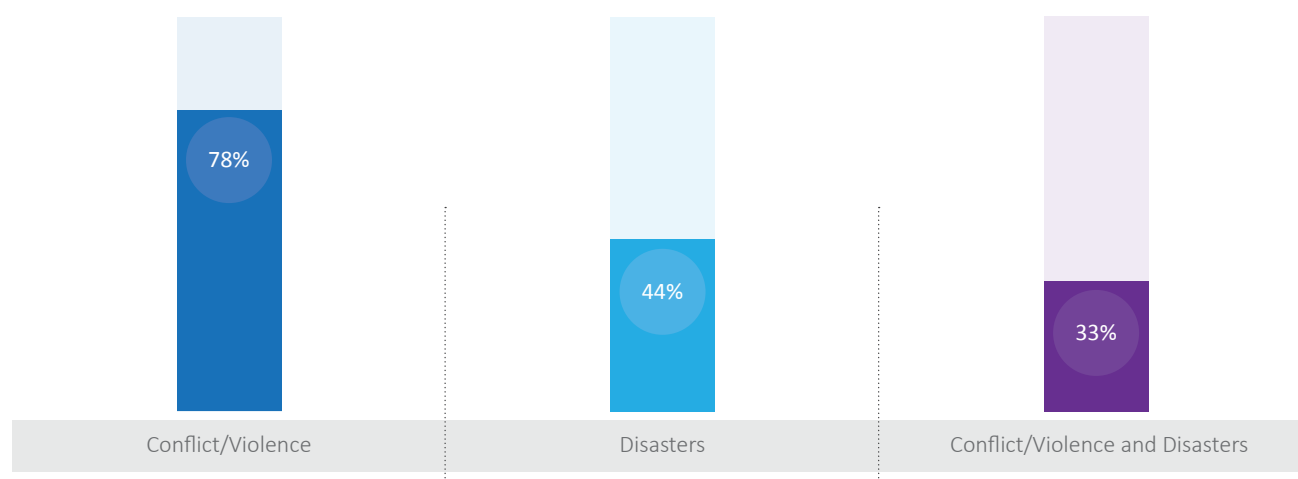
Trends in IDP Related Instruments - Asia, 1991 - 2021:



Laws and policies on internal displacement in Asia generally tend to focus on either conflict- or disaster-induced displacement. Most of these instruments were developed to address displacement associated with **armed conflict and violence**, as in **Kyrgyzstan, Myanmar, Pakistan, Sri Lanka, Tajikistan** and **Timor Leste**. In line with this, some of these countries (for example **Nepal, Tajikistan** and **Cambodia**) also included references to internal displacement

in peace agreements, and the situation of IDPs was also addressed to different extents in related peace and reconciliation frameworks in **Nepal** and **Sri Lanka**.³²² In several countries, the response to internal displacement was characterized by a strong focus on durable solutions - and particularly **return and reintegration**, which is a dominant feature throughout Asia, as illustrated in **Timor Leste, Nepal, Pakistan** or **Sri Lanka**.

Asia - Causes of Displacement in IDP-specific Instruments:



Although the development of the national IDP policies in **Afghanistan** and **Nepal** was initiated primarily in response to internal displacement associated with conflict and violence, these instruments adopted a broader approach and reflected the IDP definition included in the Guiding Principles. Therefore, they recognized conflict, violence and human rights violations as well as disasters as relevant causes of displacement in these national contexts, with the aim of providing guidance in all these situations. In recent years, accompanied by its international partners,³²³ the **Nepal** Ministry of

Home Affairs and Planning Commission took steps to address disaster displacement more effectively in disaster risk management by developing directives to operationalize the country's IDP Policy. A local consultant supported their development, and the draft directives were discussed at a broad high-level national consultation with DRM actors and other relevant stakeholders on 31 July 2019.³²⁴ Participants provided their views on the draft, and Home Affairs specifically noted that the directives could support implementation at local level of the Disaster Risk Reduction and Management Act 2017, as well as

³²² - See UNHCR-TTLP Global database, "IDP-inclusive" instruments for the countries mentioned.

³²³ - Through a project funded by Germany.

³²⁴ - The "Words into Action" Guide on Disaster Displacement, which informed the development of Nepal's draft directives, was also presented at the consultation and its Nepalese translation was launched.

implementation of the 2007 National Policy Relating to Internally Displaced Persons. The consultation concluded with agreement on an action plan for next steps, which included consulting the directives at local level. As a new disaster risk management authority was established in Nepal in 2021, it is hoped that this process will successfully continue.

Interestingly, the **Sri Lanka** National Policy on Durable Solutions for Conflict-Affected Displacement - developed in 2016 but delayed due to internal changes to the government - also explicitly recognizes that:

2.1 *“There are now and may in future be other IDPs in Sri Lanka whose displacement is the result of natural or human-made disasters, climate change, development projects, or possible future conflicts who do not come under the scope of this policy. Nonetheless, the principles and standards set out in this policy have implications for how the State responds to these other displaced communities. Furthermore, some of the displaced resulting from the conflict have been or are also affected by displacement due to natural disasters (both during displacement or after they have been resettled) and by development or infrastructure projects. As such, **developing common standards and principles which set out the rights of such persons to protection and assistance is key.**”*

2.2 *A recommendation of this policy is that the Sri Lankan Government develop a law that addresses all displaced persons and communities, particularly relating to standards and protection noted in 2.1 immediately above, so as to be prepared for all such eventualities.”*

At the same time, in line with the fact that disasters cause most of the new displacements in this region every year, Asia is also credited with **instruments dedicated exclusively to displacement associated with disaster**: in particular, **Indonesia** adopted the BNPB Regulation No. 3 on the Handling of Displaced Persons in Disaster Emergency in 2018,³²⁵ and **Bangladesh** adopted a National Strategy on the Management of Disaster and Climate Induced Internal Displacement. Originally drafted in 2015,³²⁶ this strategy was reviewed in recent years and eventually enacted by the Ministry of Disaster Management and Relief (MoDMR) in February 2021. The Strategy was launched at the occasion of the COP26 in November 2021 in presence of the State Minister and Secretary of the MoDMR. The Strategy adopts a human rights-based approach and focuses exclusively on internal displacement caused by climate-related disasters. As such, it built upon previous policies such as the Disaster Management Act (2012) as well as the Standing Orders on Disaster and the National Plan for Disaster Management (2021-2025) both adopted in 2019. Consultations on the action plan for the implementation were undertaken over the summer 2021. Planned relocation as well as disaster-displacement guidelines were also under development in Vietnam as of the end of 2021, building on previous disasters and climate change instruments. Like **Vietnam**, other countries of the region address internal displacement at varying degrees through instruments dedicated to addressing disasters and climate change, such as **China, Thailand, or the Philippines** (as well as **Myanmar, Pakistan** and **Sri Lanka**, in parallel to their IDP policy instruments on conflict-induced displacement).

³²⁵ - The country also has its 2007 Law on Disaster Management that refers to "pengungsi", a term encompassing both refugees and IDPs.

³²⁶ - By the Refugee and Migratory Movements Research Unit of the University of Dhaka, at the request of the Ministry of Disaster Management and Relief.

Finally, an important characteristic of the national legal and policy responses to different forms of internal displacement in Asia is their focus on **resettlement and addressing displacement associated with development projects**. This is particularly the case in **India**, which adopted a National Policy on Resettlement and Rehabilitation for Project Affected Families (No.46) in 2004, as

well as its related “Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement (Amendment) ordinance” in 2014. Other countries such as the **Lao People’s Democratic Republic**³²⁷ and **Myanmar**³²⁸ have also developed specific instruments to provide guidance on processes and address issues relating to resettlement in these contexts.

Country in focus: THE PHILIPPINES



Overview of the Main Laws and Policies on Internal Displacement:

Including internal displacement:

National:

- *Urban Development and Housing Act of 1992 (Republic Act 7279)*
- *Magna Carta of Women (Republic Act No. 9710) (2009)*
- *Philippine Disaster Risk Reduction and Management Act of 2010 (Republic Act 10121) (2010)*
- *Department of Social Welfare and Development Administrative Order No. 03, series of 2015 -Disaster Response Operations Guidelines (2015)*
- *Children's Emergency Relief and Protection Act (Republic Act 10821) (2016)*
- *Special Protection of Children in Situations of Armed Conflict Act (Republic Act 11188) (2019)*
- *National Action Plan on Women, Peace and Security (2017)*
- *Updated Philippine Development Plan 2017-2022 (2017, 2021)*
- *Marawi Siege Victims Compensation Act of 2022 (2022)*

Subnational:

- *Organic law for the Bangsamoro Autonomous Region in Muslim Mindanao (Republic Act No. 11054) (2017)*
- *Ensuring Gender Responsive Conflict Management, Conflict Resolution and Humanitarian Action in the Crisis in Marawi City, Lanao del Sur and the Whole of Mindanao – National Steering Committee on Women, Peace and Security Resolution No. 1 (2017)*

³²⁷ - See for example *Decree on Compensation and Resettlement Management in Development Projects* (No. 84/GoL, 5 April 2016) or the *Resettlement Policy Framework* in relation to disasters, adopted in 2019.

³²⁸ - See for example *Land Acquisition, Resettlement and Rehabilitation Law* (No. 24/2019).

Context

Mainly due to its geographical location, the Philippines is one of the most vulnerable countries to natural hazards. As a result, significant numbers of IDPs are driven from their homes by disasters. In 2021 alone, more than 5.6 displacements were recorded in the context of disasters including tropical cyclones, monsoon rains and floods.³²⁹ While a large proportion of these displacements were pre-emptive evacuations, some people remain displaced for an extended period, partly due to the destruction of their homes. Conflict and violence have also affected some parts of the country for decades, particularly its southern region of Mindanao, where thousands of people still live in protracted displacement. In 2021, instability has triggered an estimated 140,000 new displacements.³³⁰

National Framework on Internal Displacement

The Philippines does not yet have a specific law or policy to frame national efforts on prevention, protection and solutions for IDPs in the country, notwithstanding over a decade of efforts and debates to develop national legislation on this topic.³³¹ In May 2013 President Aquino III vetoed an IDP bill on the basis that certain aspects were unlawful, and others, such as powers granted to the Philippines Commission on Human Rights (CHR), were unconstitutional.³³²

Since then, a revised bill was introduced in 2014³³³ and in 2015, the Commission on Human Rights started a new multi-stakeholders consultation process to improve the previous IDP bill and address the issues that had impeded its adoption. Refined versions of the IDP bill were discussed between 2017 and 2019 by a Technical Working Group created on the subject, composed of relevant stakeholders from different government agencies and non-government organizations. Between 2019 and 2020, four bills on the protection of IDPs' rights were filed before the Philippines House of Representatives³³⁴ and two additional ones before the Philippines Senate.³³⁵ Yet, by the time the 18th Congress adjourned in June 2022, all these bills were still pending - at two Senate committees³³⁶ and at the Committee on Human Rights at the House of Representatives.³³⁷

The CHR is particularly active in upholding the rights of the IDPs,³³⁸ and is leading a legislative advocacy campaign in favour of the adoption of the bill. Supporting the IDP legislative advocacy is also in the agenda of the UN Resident Coordinator's office. The latest public hearing of the Technical Working Group of the House Committee where the bill is pending was held in March 2021. As a new set of legislators took office in July 2022, substantial lobbying efforts from all relevant stakeholders will therefore be required to ensure that political momentum around the IDP bill is sustained during the 19th Congress, so that the process can finally be completed.

³²⁹ - IDMC, *GRID 2022*, p. 27.

³³⁰ - IDMC, *ibid*, p. 56.

³³¹ - See *A/HRC/32/35/Add.3*.

³³² - See *Veto message* of President Aquino on Senate Bill No. 3317 and House Bill N°5627.

³³³ - *Rights of Internally Displaced Persons Act, Senate Bill No. 1142* (2014).

³³⁴ - These are: House bill No.709 (Rep. Belmonte), House Bill No. 1040 (Rep. Tambunting), House Bill No. 6309 (Rep. Rodríguez), and House Bill No. 6392 (Rep. Delloso-Montalla).

³³⁵ - These are: Senate Bill No. 943 (Senator Poe) and Senate Bill No. 813 (Senator Hontiveros).

³³⁶ - Bills 813 and 943 at the Primary Committee on Justice and Human Rights and secondary Committees on Justice, Welfare and Rural Development as well as on Finance.

³³⁷ - Bills N°709, 1040, 6309 and 6392).

³³⁸ - See the advisories *Human Rights Standards on Internally Displaced Persons (IDPs) in the Zamboanga Crisis* (CHR 2014-004) (2015) and *Human Rights Standards on Internally Displaced Persons (IDPs) in the Marawi City Crisis* (CHR A2017-001) (2017), as well as *Human Rights Standards on Internally Displaced Persons (IDPs) during the COVID-19 Emergency* (CHR(V) A2020-004).

At sub-national level, parallel efforts are ongoing at the Parliament of the Bangsamoro Autonomous Region in Muslim Mindanao. In July 2019, a Bill entitled “An Act Protecting the Rights of Internally Displaced Persons of the Bangsamoro Autonomous Region in Muslim Mindanao, Providing Support Therefore, and for other purposes” was introduced into the then newly established Bangsamoro Parliament.³³⁹ In March 2021, the bill underwent second reading at the plenary session of the Bangsamoro Parliament, in which its principal Author, MP Laisa Alamia, delivered her sponsorship speech. Meanwhile, the Government of the Day has identified the IDP protection among its tier-2 priority legislation and has initiated discussions on the development of a cabinet version of the Bill. Local civil society organisations in the BARMM formed an advocacy group to plan and coordinate their advocacy activities in support of the bill, including community consultations and information advocacy sessions. The extra time given by the extension of the Transition period, from 2022 to 2025 provided by Republic Act 11593,³⁴⁰ provides an ample window of opportunity for the IDP Bill to be among the legislative acts that can be passed. The Bill is in line with the Chief Minister’s 12-point priority agenda, which includes “support for the ongoing rehabilitation, reconstruction and recovery of Marawi’s displaced people”, and the *Bangsamoro Development Plan (BDP) 2020-2022*. In a recent, positive development, the Government of

the Day filed the Bill to the Bangsamoro Parliament in September 2022,³⁴¹ should this Bill pass, such progress at the sub-national level could also serve as an impulse to finally make progress on the adoption of a national Bill, as it has happened in other countries.³⁴² Interestingly, in 2022 six municipalities also adopted IDP Ordinances at their level to ensure a better coordinated and more effective response.³⁴³

Beyond IDP-specific frameworks, the Philippines has a range of other laws and policies that relate to the response to internal displacement and/or the protection of the rights of IDPs, including on child protection,³⁴⁴ gender-based violence,³⁴⁵ as well as relocations.³⁴⁶ Importantly, the legal and institutional structures addressing disasters in the Philippines are based on a law adopted in 2010³⁴⁷ (which was being revised as of June 2022), supplemented by other instruments, which together contain some recognition of displacement and the interactions between disasters and conflict dynamics [natural].³⁴⁸ There are other bills that relate to the rights of IDPs currently being discussed; a positive development in April 2022 was the adoption of the Marawi Siege Victims Compensation Bill³⁴⁹ from 30 October 2019, for which implementing regulations are being developed. Finally, some state entities such as the Commission on Elections have issued specific resolutions to facilitate the IDPs to achieve their political rights.

339 - Replacing the Autonomous Region in Muslim Mindanao (ARMM), the BARMM was formed with the ratification of its basic law, the Bangsamoro Organic Law following a plebiscite in the proposed core territories, held on January 21 and February 6, 2019. The ratification was confirmed a few days later on January 25 by the Commission on Elections (COMELEC).

340 - Available at: <https://www.officialgazette.gov.ph/downloads/2021/10oct/20211028-RA-11593-RRD.pdf>.

341 - Parliament Bill n. 32, *An Act Protecting the Rights of Internally Displaced Persons of the Bangsamoro Autonomous Region in Muslim Mindanao, Providing Mechanisms Therefor and For Other Purposes*, 19 September 2022.

342 - As of October 2022, a second IDP Bill had also been filed at the BARMM level.

343 - Patikul in Sulu province; Butig in Lanao del Sur province; Mamasapano, Datu Salibo, Datu Unsay and South Upi in Maguindanao province.

344 - The *Act Providing for the Special Protection of Children in Situations of Armed Conflict and Providing Penalties for Violations Thereof (Republic Act 11188)* adopted in 2019 is particularly notable, as it explicitly refers to the 1998 Guiding Principles on Internal Displacement. Another relevant law is the *Children's Emergency Relief and Protection Act (Republic Act 10821)*, which provides for measures to address documentation within the context of displacement.

345 - See for example: the *Magna Carta of Women (Republic Act No. 9710)* adopted in 2009.

346 - See *Urban Development and Housing Act of 1992 (Republic Act 7279)*.

347 - See the *Act No. 101211, Philippine Disaster Risk Reduction and Management Act of 2010 and the National Disaster Risk Reduction and Management Framework* of 2011.

348 - Weerasinghe, op.cit., 2021, UNHCR-IOM.

349 - See *Marawi Siege Victims Compensation Act of 2022*.



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Pacific

Context:

Countries in the Pacific are particularly affected by both sudden and slow onset disasters that are increasingly linked to climate change. The island nations are acutely at risk of harm from a range of environmental hazards including cyclones, storms, earthquakes, tsunamis, sea-level rise, erosion, storm surges, king tides, and salt-water inundation - all of which often cause local and inter-island displacement. In response, some important regional initiatives and frameworks have been created to strengthen resilience to climate change and disaster risk management, including displacement.

Examples are the *Small Island Developing States (SIDS) Accelerated Modalities of Action Pathway (Samoa Pathway) in 2014*, and the *Framework for Resilient Development in the Pacific (2017-2030)*. Most recently, in June 2022, a High-Level Dialogue bringing together 70 non-state actors as well as 27 high-level and technical representatives from Pacific governments took place in Fiji to develop a new *Regional Framework on Climate Mobility*, which aims to guide governments in addressing four main types of climate mobility: displacement, migration, evacuations and planned relocations.

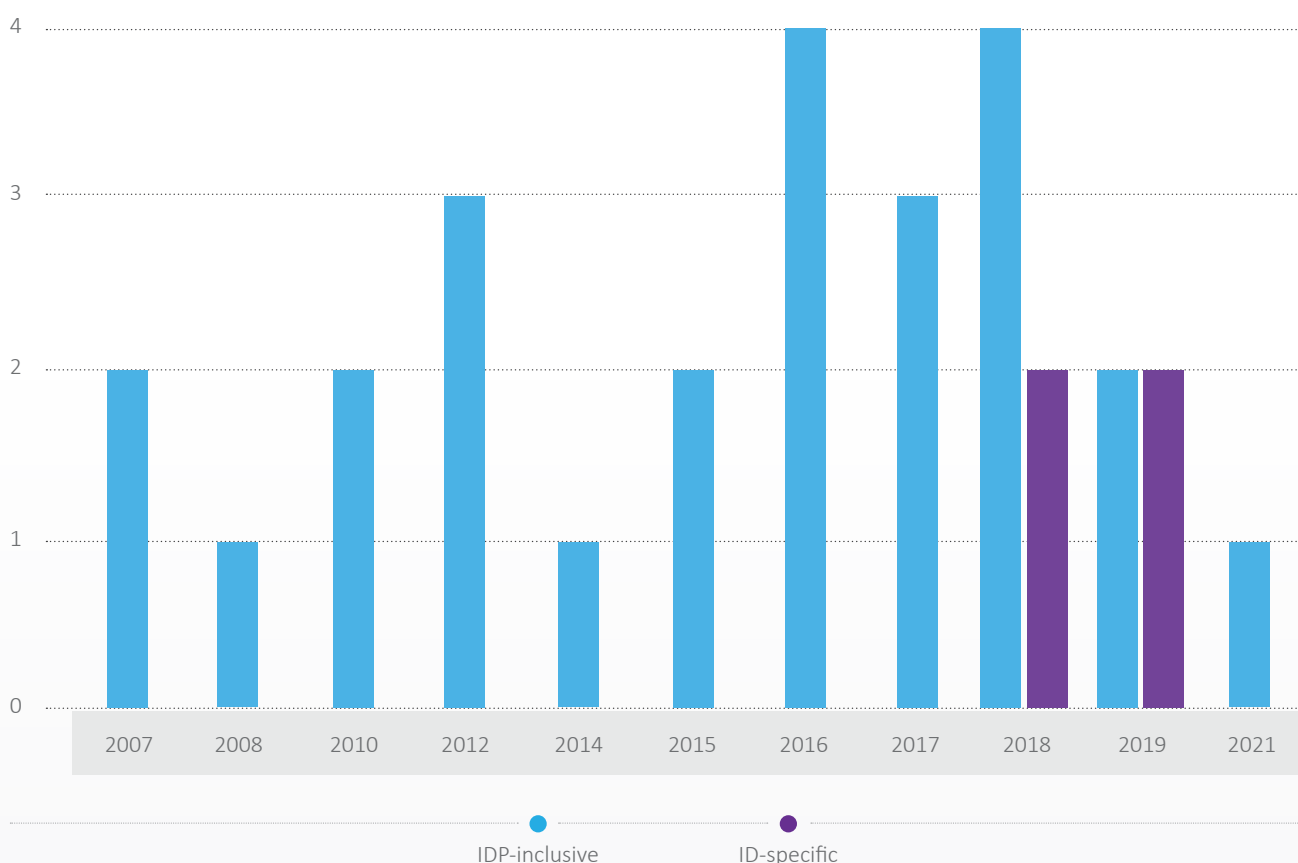
The event was facilitated through the Pacific Climate Change Migration and Human Security (PCCMHS) programme led by IOM and the Economic and Social Commission for Asia and the Pacific (ESCAP) alongside the ILO, OHCHR, PDD and the Pacific Islands Forum Secretariat.

National Legal and Policy Developments

National efforts to prevent and resolve internal displacement in the Pacific region are overall characterized by their focus on reducing the risks and addressing the impact of disasters and climate change. Many countries have addressed human mobility including internal displacement in

instruments related to disasters and climate change, such as the **Marshall Islands** in 1987 with the Disaster Assistance Act, **Samoa's** Disaster and Emergency Management Act of 2007, **Palau's** National Disaster and Risk Management Framework in 2010, the **Republic of Nauru's** Framework for Climate Change Adaptation in 2015 and **Tonga** Climate Change Policy from 2016. Most recently, in August 2022, **New Zealand** also adopted its first National Adaptation Plan acknowledging that some people will be forced to move and presents adaptation options in these contexts, including managed retreat. The country also has a plan to introduce legislation by the end of 2023 to specifically govern managed retreats, with a particular focus on Māori and Māori land.³⁵⁰

Trends in IDP Related Instruments - Pacific Region, 2007 - 2021:



350 - See *Managed retreat: what it is and when it might be used*.

So far, the only two instruments specifically dedicated to internal displacement were adopted by **Vanuatu** and **Fiji** (see country spotlight) and exclusively address displacement in the context of climate change and disasters. In 2018, the government of **Vanuatu** adopted a *National Policy on Climate Change and Disaster-Induced Displacement*, building on previous related instruments, including the country's *National Adaptation Plan of 2007*, and *Vanuatu Climate Change and Disaster Risk Reduction Policy 2016-2030*. The government decided to create a specific policy because displacement is a major recurrent issue for which there was a normative and institutional gap, as the damage and displacement caused by Cyclone Pam in 2015 made evident. The policy was developed over a three-year period by the National Disaster Management Office and the Ministry of Climate Change Adaptation with the support of IOM in consultation with other non-government partners, and the process provided a large role to the local authorities (*malvatu*),³⁵¹ and it incorporated the recommendations resulting from the *Tropical Cyclone Pam - Lessons Learned Workshop* in 2016. The policy covers twelve strategic priority areas, identifying possible systems-level and sectoral-level interventions to be taken. It also identifies cross-cutting priorities including women's leadership, gender responsiveness, social inclusion and community participation. To strengthen its operationalisation, two sets of guidelines on planned relocations and disaster-displacement are currently being developed.

Countries from the Pacific region have been spearheading the development of specific instruments to guide the planning and implementation of critical measures to be taken in the context of disasters and climate change, including evacuations and planned relocations. A significant number of them, that have already included internal displacement in instruments related to disasters and the adverse effects of climate change, are currently developing specific guidance on

these measures. For example, the **Solomon Islands** has recognized the need for including standards and procedures on planned relocations into national policy and legislation at least since 2008, when the *National Adaptation Programmes of Action* identified planned relocation as one of its key priorities. Drawing on the country's *National Disaster Management Plan* of 2018 and other related instruments, the Solomon Islands Ministry of Lands, Housing and Survey is currently developing relocation guidelines for coastal communities on low lying atolls and artificial islands that are vulnerable to climate change. The Advisory Committee that is steering the development of these guidelines (composed of key government actors, academics and civil society organisations) identified communities across four provinces to be consulted to inform the content of the document. These consultations were concluded in September 2021.

As the examples of **Fiji** (see country spotlight), **Vanuatu** and the **Solomon Islands** demonstrate, the development of legal and policy instruments addressing disaster displacement in the Pacific has generally been characterized by the use of participatory approaches. Consultations with a multitude of relevant stakeholders tend to be organized, including with the aim to learn from local and traditional knowledge, in acknowledgment of the fact that local communities have fostered innovative methods to prepare, sustain and recover from disasters over time. Encouraging and facilitating the consideration of indigenous knowledge by policymakers was in fact one of the key recommendations that the **Kingdom of Tonga** put forward to the High-Level Panel on Internal Displacement. In recent years, the Government of the **Marshall Islands** has also been drafting a National Adaptation Plan that will map out the specific vulnerabilities in the population and the atolls to ensure the viability of context-specific solutions, and the process was informed by a series of public consultations carried out in 2020. Moreover, the Marshallese Cabinet counts on a Council of Iroij -

351 - See *GP20, Vanuatu. Climate change and disaster-induced policy, 2020*.

a group of twelve paramount chiefs who advise and review legislation on all matters affecting customary law or any traditional practice, including land tenure issues which are strongly interlinked with the risk of displacement in several atolls. Despite these efforts, the government has acknowledged the country's gap in terms of normative developments on internal displacement and has requested the technical assistance of international partners to address it.³⁵²

Similarly, in Papua New Guinea, the National Disaster Centre and the Department for Provincial and Local Government Affairs conducted in 2021 community consultations with the support of IOM to inform the development of a national policy on internal displacement.³⁵³ The commitment of governments in the region to strengthening national legal and policy frameworks as a matter of priority in collaboration with their national and international partners remains key and should be promoted and supported.

Country in focus: FIJI

Overview of the Main Laws and Policies on Internal Displacement:

Including internal displacement:

National:

- *National Climate Change Policy (2018-2030)* (2019)
- *Displacement Guidelines in the Context of Climate Change and Disasters* (2019)
- *National adaptation plan. A pathway towards climate resilience* (2018)
- *National Disaster Risk Reduction Policy* (2018)
- *Planned Relocation Guidelines. A framework to undertake climate change related relocation* (2018)

Context

Fiji is particularly vulnerable to many of the impacts of climate change, and exposed to sudden and slow-onset disasters such as cyclones or coastal erosion. As a result, in 2020, the country faced 37,000 new displacements associated with disasters.³⁵⁴ Moreover, in some cases, extensive damage and the recurring nature of disasters have prevented the attainment of durable solutions, resulting in protracted and recurrent displacement.

National Framework on Internal Displacement

In 2012, the government of Fiji adopted the National Climate Change policy (NCCP) in which a strong link is established between climate change and human mobility. Indeed, Fiji is among the few countries in having mainstreamed human mobility and more particularly displacement, in all its legal and policy instruments addressing disaster and the impact of climate change. As a result, the different

³⁵² - See Submission of Republic of the Marshall Islands to the Special Rapporteur on the Rights of the IDPs, 25 August 2020.

³⁵³ - See IOM Newsletter, April July 2021.

³⁵⁴ - IDMC, *Pacific Response to Disaster Displacement urban case study: Ba Town*, July 22.

government frameworks, tools and mechanisms designed to protect and strengthen the resilience of at risk or displaced communities and persons are mutually reinforcing. Based on the NCCP, the government has developed several National Adaptation Plans (NAP) in the following years.

Further motivated by its leadership role at the Presidency of the COP23 in 2017 in Bonn, the government subsequently adopted new frameworks, increasingly addressing the specific needs of displaced persons. The National Adaptation Plan from 2018 highlights, for example, the need for human mobility issues to be incorporated into sub-national development planning processes and for a comprehensive approach to community relocation.³⁵⁵ In the same year, the government adopted a National Disaster Risk Reduction Policy (2018-2030) in which several policy principles are identified such as human rights and gender-based approaches. The strategy was closely followed by the new version of the NCCP for the period 2018-2030, in which human mobility is seen as a priority issue from the perspective of both human and national security.³⁵⁶

Following a highly participatory process also based on community consultations, the *National Planned Relocation Guidelines* were established to manage planned relocations for climate change affected communities as an adaptation strategy of last resort in the context of disasters and climate change related slow-onset events occurring in Fiji. The first of their kind, these guidelines outline principles and social safeguards based on international and domestic law, including traditional customary law, to guide government assistance to Fijian communities who may need to relocate to new sites as a last resort.

They also include references to the development of regional responses and safety nets to manage displacement issues. By the end of 2021, a technical government Task force led by CCICD was finalising the process of developing Standard Operating Procedures to support implementation of the guidelines.

In 2019 the government took an additional step to strengthen protection and solutions for IDPs with the development of a complementary framework entirely dedicated to internal displacement: the *Displacement Guidelines in the Context of Climate Change and Disasters*, which adopt human-centred and rights-based approaches. To establish the financial capacity to implement the guidelines, a Climate Relocation and Displaced Peoples Trust Fund for Communities and Infrastructure has been created.³⁵⁷ The funding comes from a percentage of the revenue from Fiji's Environment and Climate Adaptation Levy (ECAL), whose scope was expanded to include displacement, and additional voluntary donations.³⁵⁸ Adding muscles to the legal framework, a Climate Change Act in line with and cross-referencing the previous instruments, was also adopted by Parliament and published in September 2021.³⁵⁹

355 - See for example Action 9.8.

356 - See for example Objective 2.2.

357 - Fiji: *Act No. 21 of 2019 to establish a Trust Fund for the planned relocation of communities in Fiji that are adversely affected by climate change.*

358 - While Norway was instrumental in setting up the trust fund, New Zealand was *the first state* to contribute funding. They donated \$US2 million to the fund as part of a wider \$150 million climate change assistance package for Fiji.

359 - See [here](#).

SECTION 3:

ADDRESSING INTERNAL DISPLACEMENT IN THE CONTEXT OF DISASTERS AND CLIMATE CHANGE THROUGH LAW AND POLICY



Introduction

Estimates are that over 318 million new displacements occurred because of disasters triggered by floods, windstorms, earthquakes or droughts between 2008 and 2020, plus 23.6 million in 2021 alone.³⁶⁰ Disaster displacement is generally defined as “situations where people are forced to leave their homes or places of habitual residence as a result of a disaster or in order to avoid the impact of an immediate and foreseeable natural hazard. Such displacement results from the fact that affected persons are (i) exposed to (ii) a natural hazard in a situation where (iii) they are too vulnerable and lack the resilience to withstand the impacts of the hazard.”³⁶¹ Disaster displacement is multi-causal and occurs in different contexts.

Beyond methodological and conceptual debates on the issue, climate change is often understood as an exacerbating factor,³⁶² that has been proven to make certain hazards in some regions more frequent and intense. Climate change has the potential to increase the number of people displaced by conflict and/or disasters,³⁶³ including acting as an additional stressor when natural and social resources and capacities are already stretched.³⁶⁴ As a result of the adverse effects of climate change – in particular, slow-onset climate change impacts - internal displacement is expected to spiral upward in the near future.³⁶⁵

Although disaster displacement was previously largely absent from public discourse, it has received increasing attention in the last decade. The 1998 Guiding Principles on Internal Displacement explicitly include “natural or human-made disasters” as a cause of displacement in the definition of IDPs, an aspect which was then further addressed in normative frameworks in Africa, at the sub-regional level in the 2006 Great Lakes Protocol on the Protection and Assistance to IDPs and at the regional level in the 2009 Kampala Convention.³⁶⁶

Since then, the phenomenon has featured in several international and regional processes and frameworks, promoting a more ambitious discourse on reducing displacement risks as well as promoting protection and solutions for IDPs. For example, advocacy efforts as part of Conference of the Parties (COP) to the UN Framework Convention on Climate Change (UNFCCC) and the 2015 Paris Agreement did not only lead to the recognition of the links between displacement and climate change, but also to the establishment of a Task Force on Displacement under the Warsaw International Mechanism for Loss and Damage. This Task Force aims at developing recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change.³⁶⁷

³⁶⁰ - IDMC, *GRID 2022*. Please note that these figures mostly cover sudden-onset disasters, and only very limited situations of slow-onset disasters such as drought.

³⁶¹ - See Nansen Protection Agenda, p. 16.

³⁶² - Scott, *Background Brief: Key International Standards and Guidelines Relating to Displacement in the Context of Disasters and Climate Change*, Raoul Wallenberg Institute of Human Rights and Humanitarian Law, 2019.

³⁶³ - See Weerasinghe, *op.cit.*, 2021, p. 18; or Peters Katie, Holloway Kerrie and Peters Laura, *Disaster risk reduction in conflict contexts. The state of evidence*, 2019, Working Paper N°556, ODI/GIZ/BMZ.

³⁶⁴ - IDMC, *op. cit.*

³⁶⁵ - See *A/75/207*; Clement, Viviane et al., *Groundswell Part 2: Acting on Internal Climate Migration*, 2021, World Bank; IPCC, *Special Report on 1.5 degrees*, Chapter 3; and IPCC, *Sixth Assessment Report- Climate Change 2022: Impacts, Adaptation and Vulnerability*, Part II.

³⁶⁶ - See articles 1(k), 4(2),(4), 5(4) and 12(3)).

³⁶⁷ - See: <https://unfccc.int/process/bodies/constituted-bodies/WIMExCom/TFD#eq-1>. Such recommendations for integrated approaches to avert, minimise and address displacement related to the adverse impacts of climate change were proposed by the TFD and endorsed by the Parties at COP24 in Katowice.

Moreover, following the *State-led Nansen Initiative for the Protection of Cross-border Displaced Persons in the Context of Disasters and Climate Change*, the Platform on Disaster Displacement (PDD), has continued to increase the visibility of the subject and to highlight the urgent need to adequately address disaster displacement.³⁶⁸

The Sendai Framework for Disaster Risk Reduction (DRR) 2015-2030 also includes specific provisions that can inform concrete action by States as primary actors responsible for protecting people from displacement, in collaboration with their partners. Particularly worth noting here is Target (E) that aims to “substantially increase the number of countries with national and local disaster risk reduction strategies by 2020”.³⁶⁹ Thanks to the work and advocacy of a large number of partners,³⁷⁰ the outcome document of the 2022 Global Platform for Disaster Risk Reduction - which was held in May in Bali, Indonesia, and took stock of the implementation of the Sendai Framework - also contains a solid reference to disaster displacement.³⁷¹ Internal displacement in the context of disasters and climate change was also addressed in other outcome documents including the New York Declaration for Refugees and Migrants, the Global Compact for Safe, Orderly and Regular Migration, the GP20 Plan of Action for Advancing Prevention, Protection and Solutions for Internally Displaced People (2018-2020), and more recently in the report of the UN

Secretary-General's High Level Panel on Internal Displacement (2021) and its related UN SG's Action Agenda.³⁷²

Although these are all mostly recent developments, the international policy discourse and frameworks have already begun to be translated at the regional and national levels. Human mobility including displacement in the context of disasters and climate change is addressed to different degrees, in several regional and subregional policies and strategies relating to disaster risk reduction and management, migration and climate change.³⁷³

Internal displacement in the context of disasters and climate change lies at the intersection of various legal fields, from international human rights law to international environmental law among others (including international humanitarian law in the many contexts where internal displacements associated with conflict and disasters coexist), as well as policy fields such as disaster risk reduction and IDP protection.³⁷⁴ Therefore, **addressing disaster displacement through effective legal and policy interventions at the national level requires concerted and coherent action across different policy areas, and can be translated into different types of laws and policies.**

³⁶⁸ - IDMC, *GRID 2021*, pp. 100-102.

³⁶⁹ - <https://www.preventionweb.net/sendai-framework/sendai-framework-at-a-glance>.

³⁷⁰ - PDD, *Reporting Back: Disaster Displacement and the 2022 Global Platform for Disaster Risk Reduction*, 2 June 2022.

³⁷¹ - See UNDRR, *Co-Chairs' Summary Bali Agenda for Resilience, 2022*: “29. Provisions to address disaster displacement and other forms of human mobility should be included in national, local and regional disaster risk reduction policies and strategies, as done by some countries. The risk of disaster displacement should be assessed and reduced, including through addressing the underlying causes of such displacement and preparing for its adverse consequences.”

³⁷² - Disaster and climate change are addressed throughout the report, including in some of the recommendations such as recommendation 8 on the drivers of displacement and how to reduce displacement risks which includes that “States should ensure that laws, policies, strategies and action on disaster management and disaster risk reduction address displacement risks (including the possibility of protracted displacement) more explicitly and proactively, including with consideration for how risks intersect, overlap and are compounded by broader societal challenges.”

³⁷³ - Examples include the *Framework for Resilient Development in the Pacific: An Integrated Approach to Address Climate Change and Disaster Risk Management* (2017–2030), the *Central American Policy on Comprehensive Disaster Risk Management* (2017) as well as the *IGAD Regional Migration Policy Framework* (2012) and the *Protocol on Free Movement of Persons in the IGAD Region* (2020) of the Intergovernmental Authority on Development (IGAD). For more information, please refer to Special Rapporteur on the Human Rights of Internally Displaced Persons (2020), *op. cit.* or Matthew Scott, “Migration/Refugees (2020)” in Giulio Bartolini et al. (eds) *Yearbook of International Disaster Law* (Brill 2022).

³⁷⁴ - For more, see Scott (2019), *op. cit.*

These can be broadly divided into two main categories:

a *Stand-alone legal and policy frameworks on internal displacement, whether exclusively dedicated to disaster displacement or to internal displacement more generally;*

and

b *Legal and policy frameworks relating to disasters and climate change that also address human mobility, including internal displacement.*

In both cases, measures may relate to the prevention of and preparedness for displacement, protection during displacement (including during evacuation), and facilitation of durable solutions.

It should be emphasized that the **approaches leading to the development, adoption and implementation of these different frameworks are not mutually exclusive. On the contrary, depending on the context, such approaches can be complementary and mutually reinforcing.** Law and policymakers should base their efforts on an assessment of the displacement situation and, when possible, the outcome of a review of national legal and policy frameworks relating to the protection of IDPs. This analysis will allow them to decide whether to develop a stand-alone displacement-specific instrument, or to address outstanding issues related to prevention and protection of IDPs by amending existing sectoral frameworks. A combination of the two approaches is possible and may even be desirable or necessary, to avoid contradictions between different legal instruments and to ensure effective and coordinated responses.³⁷⁵

This point was, for example, central to the discussions that took place in December 2021 in a workshop on the domestication of the Kampala Convention in **Burkina Faso** with the newly established Inter-Ministerial Committee in charge of the process.³⁷⁶ Initially, the Government envisaged to transpose the Convention into national legislation through a review of the country's Law on the Prevention and Management of Risks, Humanitarian Crises and Disasters adopted in 2014. However, the Committee decided that a legal review, to be carried out as a matter of priority in 2022, would help clarify whether a more comprehensive legal instrument specifically dedicated to internal displacement would be necessary. Additionally, the legal review would contribute to identifying whether amendments are necessary to bring the 2014 Law in line with relevant international standards.

Well-conceived and complementary laws and policies, grounded in national and subnational realities, provide an authoritative and enabling environment to strengthen efforts to address risks, protection and durable solutions for IDPs. To support the needed reflection on this important point, UNHCR and IOM published a report in 2021 examining the legal, policy, institutional and coordination frameworks on internal displacement, disaster risk reduction, climate change and development in Afghanistan, Colombia, Niger, the Philippines and Somalia. The report provided evidence on how normative and operational mechanisms in these five countries address displacement associated with the dual challenges of conflict and disaster; it also offered observations and suggestions that may inform efforts to address displacement in such settings. Ultimately, the report concluded that harmonized and complementary instruments and well-coordinated institutions and processes are essential for creating an enabling environment to protect IDPs and resolve internal displacement.³⁷⁷

³⁷⁵ - Brookings, IDMC, NRC, *National instruments on internal displacement: a Guide to their development*, 2013, p. 32.

³⁷⁶ - See *workshop report*.

³⁷⁷ - Weerasinghe, 2021, *op.cit.*



Disaster Displacement in Instruments Specific to Internal Displacement

Over the last decade, an increasing number of States have adopted laws or policies on internal displacement that address displacement in the contexts of disasters and climate change. According to the last update of the Global Database on Laws and Policies on Internal Displacement, 24 out of the 51 laws and policies on internal displacement adopted at the national level address disasters as a cause of displacement. A smaller number also explicitly refer to climate change, such as Sri Lanka’s *National Policy on Durable Solutions for Conflict-Affected Displacement* (2016).³⁷⁸ This number is relatively limited when compared to the 42 laws and policies addressing displacement caused by conflict or violence, though the gap seems to be reducing with time.

Eleven of the 24 national laws and policies addressing disaster displacement were adopted in Africa. Although the development and adoption of many of the IDP laws and policies in the continent have been initiated and advocated primarily to respond to situations of displacement resulting from armed conflict, generalized violence and human rights violations, almost all of them also address disaster displacement in line with the Kampala Convention, which requires the most comprehensive approach to internal displacement. This is for example the case in **Kenya, Niger** and **Uganda**. In other regions, the same could also be said for the IDP policies in **Iraq** or **Yemen**.

As it is increasingly recognized that different causes of displacement may overlap geographically and/or in time,³⁷⁹ comprehensive IDP laws and policies may

³⁷⁸ - The policy states that “This policy recognizes that there are now and may in future be other IDPs in Sri Lanka whose displacement is the result of natural or human-made disasters, climate change, development projects, or possible future conflicts who do not come under the scope of this policy. Nonetheless, the principles and standards set out in this policy have implications for how the State responds to these other displaced communities” (p.5).

³⁷⁹ - See Weerasinghe, 2021, *op. cit.* and Peters- Holloway, *op. cit.* 2019, and Norwegian Red Cross, *Overlapping vulnerabilities: the impact of climate change on humanitarian needs*, 2019, Oslo: NRC.

be more flexible in adapting to different displacement situations and decreasing potential discrepancies in the response to different groups of IDPs. However, it should be stressed that although the extent to which the provisions of existing IDP-specific frameworks are in line with disaster risk reduction and/or climate change adaptation (CCA) standards and guidance vary; they generally present limitations in addressing displacement associated with disasters and climate change, especially in the context of slow-onset disasters, particularly drought. As shown in the 2021 UNHCR-IOM study, specific frameworks on internal displacement may not accurately address the interaction and cumulative impact of conflict and hazards on IDPs, or not seriously consider DRR and DRM concepts and measures such as risk assessment, early warning mechanisms or contingency planning.³⁸⁰ This highlights the need for them to be complemented by other instruments.

Given its comprehensive nature, the Kampala Convention presents a significant opportunity for addressing disaster and climate change-related displacement in the continent³⁸¹ - an opportunity which was most recently taken by the government of **Mozambique**, when it adopted its *Policy and Strategy on the Management of Internal Displacement* in August 2021.³⁸²

At the same time, the Convention itself requires State Parties to “incorporate its obligations into domestic law by enacting or amending relevant legislation on the protection of and assistance to IDPs in line with their international obligations”

(Article 3.2.a), and to “adopt other measures as appropriate, including strategies and policies (...)” (Article 3.2.c). This confirms that the need for complementary legal and policy interventions adapted to the local context was therefore already envisaged by the drafters.

In recent years, some countries that have been regularly or increasingly affected by internal displacement due to sudden-onset and/or slow-onset disasters have decided to establish frameworks that specifically focus on displacement in the context of disasters and/or climate change. Such instruments are particularly valuable in addressing the protection and assistance needs as well as guaranteeing the rights - including to a durable solution - of internally displaced people in line with international frameworks, particularly when they adopt a people-centred and rights-based approach. Important examples include:

- *the National Strategy on the Management of Disaster and Climate Induced Internal Displacement adopted by Bangladesh in 2020;*
- *the Displacement guidelines in the context of climate change and disasters adopted in Fiji in 2020;*
- *the National Policy on Climate Change and Disaster-Induced Displacement adopted by Vanuatu in 2018; or*
- *the BNPB Regulation N°3 on the Handling of Displaced Persons in Disaster Emergency adopted by Indonesia in 2018.*

³⁸⁰ - Weerasinghe, 2021, *op.cit.*

³⁸¹ - States’ obligations under the Kampala Convention extend to prevention, which in the context of disasters and climate change includes “take appropriate measures that allow to prevent and mitigate against the effects of disasters, including devising early warning systems; establish and implementing disaster risk reduction strategies, emergency and disaster preparedness and management measures”.

³⁸² - In Mozambique, the process of policy-making on internal displacement was initiated by the Government to address a gap existing in their DRR law, which did not include any references to displacement- therefore with an initial focus on displacement in the context of disaster and climate change. During the process, the scope of the instrument was then broadened to other causes of displacement in line with the Kampala Convention.

Internal Displacement in Instruments Related to Disasters and Climate Change

In line with international policy approaches and recommendations on the subject, States are increasingly deciding to integrate internal displacement into pre-existing or new legal and policy frameworks related to disasters and/or climate change.³⁸³ Yet, to fully address internal displacement, it is important for these instruments to include specific measures to prevent, address and achieve solutions for displacement. Measures can be adopted to reduce disaster risk (including preparing for unavoidable displacement), respond to disaster displacement and strengthen the resilience of people displaced by disasters, including for them to achieve a durable solution to their displacement.³⁸⁴ This is why although most disaster frameworks regulate evacuations, this alone is not sufficient. It is also crucial for these instruments to adopt a rights-based approach to disaster risk reduction and management and, for example, include specific protection of vulnerable displaced groups such as children or persons separated by disasters. Clear roles and responsibilities for addressing disaster displacement and other related forms of human

mobility should be designated to promote an effective and coordinated response, and designated authorities should have adequate legal and administrative authority and institutional capacity. National and local DRR laws, policies, strategies and plans should be reviewed to ensure alignment with national, regional or international legal instruments that address disaster displacement, such as the Guiding Principles and national laws and policies on internal displacement, as well as other forms of related human mobility.

Several international partners are available to provide support and technical assistance to governments in their efforts to comprehensively integrate displacement into frameworks related to disasters and climate change.³⁸⁵ These frameworks can take different forms, such as:

- the *Law on Natural Disaster Prevention and Control* adopted in Vietnam in 2013,³⁸⁶
- *Saint-Lucia's National Adaptation Plan (NAP) 2018-2028* adopted in 2018,³⁸⁷

383 - By January 2022, there are over 130 instruments [136] on disaster or climate change that address internal displacement across almost 60 countries (56), gathered non-exhaustively in the Global Database on Law and Policy on Internal Displacement; For laws and policies on disaster and climate change specifically see also *IFRC Disaster Law Database* and LSE, *Climate Change Laws of the World*.

384 - There are some important research initiatives focused on evaluating national legal and policy frameworks relating to climate change adaptation and disaster risk reduction such as the one led by the Raoul Wallenberg Institute, which examines the extent to which key international standards and guidelines relating to displacement in the context of disasters and climate change were integrated in national law and policy relating to CCA and DRR. Adopting a human rights-based approach, a tool was adopted that facilitates the systematic identification of relevant provisions relating to governance, procedural, substantive and non-discrimination and equality elements of the approach. More information on the research initiative and the tool is available at: <https://rwi.lu.se/disaster-displacement/>.

385 - For example, in 2019 the UN Office for Disaster Risk Reduction partnered with the PDD and the Norwegian Refugee Council to produce the *Words into Action Guidelines on Disaster Displacement*, whose goal is to help governments integrate disaster displacement and other related forms of human mobility into regional, national, sub-national and local DRR strategies in accordance with Target (E) of the Sendai Framework, to revise or develop DRR strategies by 2020. See also Question 7 on disaster displacement and planned relocation of IFRC (2019), *Checklist on Law and Disaster Preparedness and Response*, Geneva: IFRC.

386 - The law provides amongst others that the State develops policies on disaster prevention and control including “To invest in infrastructure in areas where natural disasters frequently occur; to relocate people living in dangerous areas to safe areas; to support the livelihoods and production of those suffering from damage caused by natural disasters, giving priority to areas frequently affected by natural disasters and vulnerable groups” (article 5.3).

387 - Displacement is mentioned at several occasions in the NAP, as a potential loss and damage as well as address migration and displacement in the risk reduction section. More specifically, it is noted that “Saint Lucia does not view migration as an acceptable adaptation strategy, and this is not included in its NAP. However, in the realm of limits to adaptation and loss and damage, Saint Lucia may wish to give consideration to collaboration with countries and organisations on proactive and context specific measures to avert, minimize and address displacement and planned migration of vulnerable communities” (p.133).

- the *Framework Law on Climate Change* adopted in Peru in 2018.³⁸⁸

Instruments related to disasters and climate change tend to include the broader concept of “human mobility”.³⁸⁹ Though they may not cover all forms of mobility, human mobility is usually understood as encompassing several types such as displacement, migration and planned relocations. A study conducted in 2018 found that most of the national DRR strategies reviewed (83 percent of the 82 identified) made some references to human mobility issues, explicitly including displacement in some cases. Yet the specific provisions related to internal displacement varied in terms of definition, guidance and concrete actions promoted.³⁹⁰ Similarly, a review of national disaster, climate change and development policies in the IGAD region conducted in 2020 found that most IGAD States mentioned mobility in their DRR and CCA policies and strategies, yet none of the policy documents surveyed comprehensively addressed the protection of the disaster displaced.³⁹¹ The 2021 UNHCR-IOM study also underlined that DRR and DRM instruments in the five countries examined included explicit reference to displacement or IDPs, but that the themes and scope of engagement vary significantly from one instrument to another.³⁹²

Compared to instruments specific to internal displacement, many of these laws and policies tend to consider a longer time frame, as they may address sudden-onset as well as slow-onset disasters and processes, including slow ongoing environmental changes and the issue of habitability. As a result,

they may address mobility, including displacement situations, which are usually not fully addressed in existing IDP laws and policies. Importantly, these frameworks may provide useful guidance and tools³⁹³ for thinking in anticipation of the events and possible displacements, reducing vulnerability and strengthening resilience, increasing the preparedness of people potentially exposed to hazards or mitigating adverse effects of climate change and disasters, therefore preventing the conditions that could lead to displacement in the short, mid and long run.³⁹⁴

Importantly, many of the countries that have adopted an IDP law or policy addressing disaster displacement also have frameworks in place related to disasters and/or climate change, as in **Afghanistan, Bangladesh, Kenya, Liberia, Nepal, Peru, Sierra Leone, Somalia, Sri Lanka, Turkey, Uganda, Vanuatu** and **Zambia**. Yet, despite the need for working hand in hand to comprehensively address the issue, institutions and actors responsible for climate change, disaster management and internal displacement often tend to operate in silos.³⁹⁵ This underscores the importance of building coherence and partnerships across all these policy areas. **Somalia** is one example where significant efforts have been made to promote coherence between disaster and internal displacement normative and institutional frameworks, with a strong focus on protection and solutions for IDPs.³⁹⁶ The case of Fiji is also particularly relevant as mobility was actively mainstreamed into all major climate change and disaster risk reduction policies, while specific displacement guidelines were also developed. In sum, both types of instruments can

³⁸⁸ - The law provides among other measures, that the government will produce “a plan of action to prevent and attend forced migration caused by the effects of climate change, in order to avoid increasing pressure on the infrastructure and urban services, the increase of possible social conflicts, and for the migrants themselves, the worsening of health, education and social indicators” (art.9).

³⁸⁹ - Other countries have developed similar legislation, such as Morocco that has developed a framework to compensate the “victims of catastrophic events” through *la loi n° 110-14 instituant un régime de couverture des conséquences d’évènements catastrophiques, adoptée par Dahir le 25 août 2016* and complements (see Morocco’s response to the Survey on Law and Policy on Internal Displacement, November 2021).

³⁹⁰ - See Yonetani, *Mapping the Baseline*, 2018, PDD.

³⁹¹ - Nyandiko- Freeman, *Disaster Risk Reduction, Climate Change Adaptation and Development Policies and their Consideration of Disaster Displacement and Human Mobility in the IGAD Region*, 2020, NRC, PDD, UNDRR and IGAD.

³⁹² - See Weerasinghe, *op. cit.*

³⁹³ - Including the use of national trust funds and forecast-based financing mechanisms, which release humanitarian funding for pre-agreed early actions, to better anticipate displacement needs in advance of a crisis on the basis of scientific forecasts and risk dates.

³⁹⁴ - Special Rapporteur on the Human Rights of Internally Displaced Persons (2020), *op. cit.*

³⁹⁵ - Weerasinghe, *op. cit.*

³⁹⁶ - *Ibid.*

reinforce each other and contribute to guaranteeing the rights of the IDPs, as they are anchored on similar rights and principles.³⁹⁷

Promoting harmonisation among the various instruments and approaches is essential. This should be pursued and reflected in the content of the different frameworks, particularly when articulating institutional roles and responsibilities, allocating adequate resources and establishing effective coordination mechanisms. In some countries, for example, the establishment of a new Ministry or of inter-ministerial committees overseeing the IDP response was helpful to overcome existing competition among different actors with sometimes overlapping responsibilities, as national disaster management agencies and national commissions on refugees and IDPs could be. Decisions on structures of governance for an IDP response should be based on a full understanding of existing legal, policy and

institutional frameworks relating to the protection of IDPs, which can be informed by comprehensive reviews on those, as it was done in **CAR, Kenya, Mozambique, Mexico, Ukraine** and **Zimbabwe**. Promoting the use of the most adequate terminology is also crucial in this effort of convergence,⁴⁹⁸ which is why guidance has been developed to support States in incorporating rights-based approaches into disaster and climate change documents.³⁹⁹ Such a harmonisation should also be promoted during the process of developing new instruments or amending existing ones. Law and policy-making processes should be participatory and inclusive of all relevant stakeholders across sectors, which in turn can promote buy-in, long-term engagement and effective coordination in implementation. This helps to trigger relevant discussions among all participants in the process, provides advocacy opportunities, helps to resolve misunderstandings and to reach agreement on key notions, definitions and concepts.⁴⁰⁰

Issue in focus: Planned relocations in the context of disasters and climate change

Planned relocation is generally defined as a “planned process in which persons or groups of persons move or are assisted to move away from their homes or places of temporary residence, are settled in a new location, and provided with the conditions for rebuilding their lives.”⁴⁰¹ Planned relocation is one of the three forms of human mobility associated with disasters and climate change together with displacement and migration. While it may be necessary under certain circumstances, planned relocation also carries significant risks for those it is intended to benefit - such as the disruption of social, economic or cultural networks - and therefore should be considered a measure of last resort for when adaptation and mitigation measures are no longer feasible.⁴⁰² Hence, planned relocation tends to be a State-led process. As a result, national authorities bear particular responsibility to ensure the application of relevant standards and procedures. Relocations should be carefully planned, following the principles of necessity and proportionality, and ensuring the active participation of the affected population. Governments should ensure that those who move can do so safely, with dignity, having their rights protected.

397 - See Scott (2019), *op. cit.*

498 - Particular attention should be made on the distinction between: planned relocation, resettlement and evacuation.

399 - See UNDRR, *Words into Action - Guidelines on Disaster Displacement*, 2019; its supporting checklist (NRC, 2020) and e-learning course: *Disaster displacement: How to reduce risk, address impacts and strengthen resilience*.

400 - Brookings, IDMC, NRC, *op. cit.*, 2013, p. 22.

401 - Georgetown University, UNHCR and Brookings Institution, *Guidance on Protecting People from Disasters and Environmental Change through Planned Relocation*, 2015, p 5. Also Weerasinghe, *Planned Relocation, Disasters and Climate Change: Consolidating Good Practices and Preparing for the Future*, 2014.

402 - Georgetown University, UNHCR and Brookings Institution, *op.cit.* See also IOM, Georgetown University, UNHCR, *Toolbox: Planning Relocations to Protect People from Disasters and Environmental Change*, 2017.

Badly planned relocations can have severe negative impacts on the people concerned and may amount to arbitrary displacement under certain circumstances.

Though planned relocations have already taken place in many different countries of the world, there is no international or regional legal framework explicitly dedicated to planned relocation.⁴⁰³ A number of international frameworks such as the Global Compact for Safe Orderly and Regular Migration, the Cancun Agreement and the Sendai Framework recognize planned relocation as an important mechanism; however, they do not provide clear normative guidance on when or how planned relocation should take place. Against this gap, several tools have been developed, such as the “Guidance on Protecting People from Disasters and Environmental Change through Planned Relocation” (2015)⁴⁰⁴ or the “Toolbox: Planning Relocations to Protect People from Disasters and Environmental Change.”⁴⁰⁵

In the absence of an overarching international or regional framework on this, the most immediate opportunities for addressing planned relocation in the context of disasters and climate change are found within national legal and policy frameworks. Those relating to climate change and disaster risk reduction may be especially useful, although planned relocation may be regulated in several other fields such as those related to development or resettlement, internal displacement or zoning and planning instruments.⁴⁰⁶ Recent analysis on planned relocations in Africa indicated that further research is needed to build knowledge on the types of domestic legal and policy frameworks that underpin planned relocation cases. Indeed, building knowledge of normative frameworks and relevant provisions is an important step for understanding approaches to planned relocation, evaluating the fitness for purpose of existing norms and approaches, and assessing their implementation in practice.

The Government of Fiji was the first in the world to develop *Planned Relocation Guidelines. A framework to undertake climate change related relocation (2018)*. These guidelines present the principles and steps to follow before, during and after the planned relocation process, which were complemented by the adoption of the Standard Operating Procedures based on both scientific data and consultations with the communities. In addition, the government of Fiji also decided to develop in 2019 *Displacement Guidelines in the Context of Climate Change and Disasters*, to provide guidance in addressing and reducing vulnerabilities associated with displacement as well as “considering sustainable solutions to prevent and minimize the drivers of displacement on the affected communities in relation to climate change and disaster-associated events occurring on the territory of Fiji”.⁴⁰⁷ More concretely, the *Displacement Guidelines* provides guidance for the Fijian government and all relevant stakeholders around the three stages of displacement: before, during and after the displacement. These two sets of guidelines have distinct objectives and, as a result, attribute different roles and responsibilities to national and local authorities. Several countries including Benin, the Solomon Islands, Vanuatu and Vietnam are currently following the same path and developing separate instruments dedicated to planned relocations and displacement.

403 - See Bower- Weerasinghe, *Leaving place, Restoring Home*, 2021, PDD.

404 - Georgetown University, UNHCR and Brookings Institution, *op.cit.*

405 - IOM, Georgetown University, UNHCR, *op. cit.* Reference should also be made to the work of Robin Bronen at the Alaska Institute of Justice, who developed a number of studies and tools on climate-induced community-relocations, available at: <http://www.akijp.org/policy-and-research/publications-and-reports/>.

406 - *Research Agenda on Advancing Law and Policy Responses to Displacement and Migration in the Context of Disasters and Climate Change in Africa*, 2021, p. 27.

407 - See Fiji: *Displacement Guidelines in the Context of Climate Change and Disasters*, p.3. See also Fiji country spotlight.

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