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Lessons on implementing IDP protection law and policy

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Question

What lessons and promising practices can be identified from national-level experience with the development and implementation of legal and policy frameworks that seek to protect and assist internally displaced people, including the Kampala Convention?

Contents

1. Summary

This rapid literature review finds that lessons on the development and implementation of law and policy to protect and support internally displaced persons (IDPs) focus on the importance of political will and capacity to implement solutions. They, therefore, emphasise the involvement of several stakeholders. Methods to disseminate knowledge, expertise and norms, alongside efforts of civil society actors to highlight IDP issues and hold authorities to account, have been used.

IDPs present a complex problem that varies from context-to-context. The primary responsibility for protecting and supporting IDPs lies with the national government. IDPs may share needs with refugees and non-displaced citizens. Their needs may differ depending on whether they are displaced by conflict, violence, human rights abuses or disaster, whether a conflict is ongoing, whether they are living in urban or rural areas, among other factors. While the state holds responsibility, in situations such as conflict, national governments may be unable, or unwilling, to provide the necessary support to IDPs.

This review focuses on lessons around the development and implementation of legal and policy frameworks to protect, support and find durable solutions for IDPs. This may take the form of domestication of international frameworks such as the Pact on Security, Stability and Development in the Great Lakes Region (the Great Lakes Pact, 2008); the African Union Convention for the Protection and Assistance to Internally Displaced Persons (Kampala Convention, 2009) or the UN Guiding Principles on Internal Displacement (1998). Even if states refer to such principles, 'studies emphasise that the content of the diverse national laws and policies rightly reflects the specific circumstances of IDPs in each country' (Cantor and Woolley, 2020, p. 14). A legal framework is not a prerequisite for a successful IDP policy, not least because it may not be implemented successfully.[1]

There is overlap between international IDP instruments (e.g. the Kampala Convention) and national laws that may include instruments that protect IDPs as citizens. In some contexts, frameworks can miss needs by holding narrow conceptions of IDPs (Regasa & Lietaert, 2022). The papers surveyed for this review focus on the domestication of frameworks such as the Kampala Convention, as well as analysis of domestic instruments that may address IDP needs (e.g. disaster management, or constitutional provision) and may predate international IDP conventions. Much of the evidence takes instruments such as the UN Guiding Principles and AU Kampala Convention as best practice.

The domestication of the Kampala Convention, or the creation of frameworks that use concepts from the Kampala Convention or the UN Guiding Principles, is often taken as a benchmark. This review focuses on lessons learned on the implementation of such frameworks that specify the need to protect IDPs and provide support for durable solutions to their displacement. However, it is important to note that in some cases, IDP situations have been dealt with effectively without reference to these frameworks or without IDP-specific laws. The available literature focuses on the development and implementation of IDP frameworks, as well as discussion of the efficacy of

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[1] Orchard notes that 'not all strong commitments have created strong laws or policies. In Azerbaijan, while the state has committed significant resources to its IDP situation, its legal framework remains weak. Similarly, in Bosnia, the government has made significant commitments to return, but problems persist with the legal framework and protecting returnees of different ethnic backgrounds' (Orchard, 2018, p. 168).

these frameworks in some cases. Summarising the reasons for failed implementation, Orchard (2018, p. 168) writes that it can take several forms: laws are too narrow to deal with the problem, they are not amended, the end of a conflict sees IDPs return without a suitable policy framework in place, or the onset/resumption of a conflict challenges the implementation of a policy. This review attempts to include evidence on both ratification of IDP frameworks and implementation of policies, where possible.

This review finds a number of broad reasons for lack of domestication and effective implementation. Broadly, these barriers to implementation can be characterised as either **questions of political will** or **a lack of capacity**. Orchard suggests that implementation may stall because of a lack of state capacity, a lack of political will, or the existence of domestic opposition (Orchard, 2018, p. 10; Ferris, 2020). These may take the form of 'limited technical, financial and human resources; lack of awareness of applicable frameworks; insufficient budget allocations; limited political will and commitment; shifting political dynamics; staff attrition and turnover; and limited monitoring, evaluation and accountability mechanisms' (Weerasinghe, 2021, pp. 46–47).

Lessons on implementing IDP frameworks, therefore, focus on likely drivers of political will, such as peace processes, development projects, external persuasion from other states, regional organisations or NGOs, or internal pressure from domestic institutions or organised citizens; methods to build capacity such training and funding. **This review finds a number of broad reasons for successful domestication and effective implementation. They include:**

- Political imperatives to protect, resettle or integrate IDPs, which may be generated domestically, as part of peace processes, or through linkages with regional processes, such as the EU accession or the Kampala Convention. It is found that political will tends to be greater at or soon after the onset of displacement.
- State capacity, which can be developed alongside other states or international organisations. The implementation of solutions for IDPs does not necessarily require significant resources. Capacity was built in Liberia and Sierra Leone in conjunction with international aid actors (Orchard, 2018)
- The effect of institutional arrangements, ministerial and local government responsibilities and capacity, and of other national actors such as courts.
- The role of national civil society such as human rights organisations in lobbying for IDPs, collecting data, monitoring IDP needs and holding authorities to account.
- The role of regional bodies and international actors in spreading norms, expertise and building capacity.
- The need to engage with IDPs in order to shape appropriate policy.

The review first provides evidence on particular states in section 1. The sample is non-representative and is based on the availability of evidence.[2] It then summarises general lessons from the literature in section 3. The evidence found discusses lessons on the diffusion, domestication and implementation of IDP frameworks. The analysis focuses on the scope and appropriateness of legislation; evidence on its use; and analysis of drivers and barriers to the

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[2] https://www.globalprotectioncluster.org/global-database-on-idp-laws-and-policies/

implementation and improvement of legislation. It, therefore, discusses issues such as organisational coordination, resource allocation, access to courts, and political imperative. The review has used grey and academic literature. It is gender- and disability-blind.

2. Lessons from states

Somalia

Although Somalia suffers from ongoing conflict, instability and limited state capacity, it has implemented IDP frameworks that are well regarded ('Translating the Kampala Convention into Practice', 2017). In 2019, the country adopted the National Policy on Refugee-Returnees and Internally Displaced Persons (NPRRI) (Weerasinghe, 2021, p. 183). The NPRRI is a rights-based framework that makes reference to Kampala and the Guiding Principles. The Puntland and Somaliland regions also developed policy guidelines on displacement in 2012 and 2016, respectively ('Translating the Kampala Convention into Practice', 2017)

Policymaker informants highlight that "efforts, including the pledges made at the Global Refugee Forum, demonstrate political will and high-level commitment to address displacement issues" (Weerasinghe, 2021, p. 204). However, 'given the "newness" of policy frameworks in Somalia, evidence of the use and impacts of newly adopted policies has been slow to surface' (Weerasinghe, 2021, p. 202).

Moreover, two key challenges have been identified. First, the responsibilities of different actors need harmonisation. It is noted that 'at the federal level, a range of ministries and institutions have responsibilities relevant to IDPs. However, there are differences in opinion or understanding regarding these responsibilities and mandates' (Weerasinghe, 2021, p. 201). In addition, the federal and state governments do not have sufficient capacity to implement the framework (Weerasinghe, 2021, p. 202).

Kenya

Kenya has adopted 'a comprehensive framework to address displacement issues'. It is a party to the Great Lakes Pact ('Translating the Kampala Convention into Practice', 2017).

It is argued that Kenya's adoption of an IDP framework was driven by the violence in 2007-8 that displaced many Kenyans (A Review of the Normative Framework in Kenya Relating to the Protection of IDPs, 2015).

According to Oputu, 'when Kenya passed its IDP Law, the impetus for reform came from civil society, which kept the focus on the national agenda and political realities' (Oputu, 2022). An analysis of the implementation of Kenya's IDP laws highlights the role of civil society and particularly the role of the Protection Cluster's Protection Working Group on Internal Displacement (PWGID) (*Behind the Scenes: Lessons Learnt from Developing a National Policy Framework on Internal Displacement in Kenya*, 2013). Resources were provided by civil society organisations, and PWGID cultivated contacts with government.

It identified the following helpful factors ("Behind the scenes: lessons Learnt from Developing a National Policy Framework on Internal Displacement in Kenya", 2013, p. 7):

- creation of a critical mass of actors;

- establishment of a national coordination mechanism;

- strategies for resource mobilisation;

- partnership with the government in the policy development process;

- adaptation of international protection benchmarks to suit local conditions;

- creation and utilisation of networks;

- timing of policy development processes;

- identification of institutional weaknesses and building the capacity of actors to boost their participation in the process;

- need for flexibility on policy development options;

- the use of local and external expertise;

- Getting different branches of government on board.

Niger

Niger has domesticated the Guiding Principles. In 2018 Niger passed a Law on the Protection and Assistance of Internally Displaced Persons (IDP Law). The law is in line with the Kampala Convention.

The role of collaboration is highlighted as a driver of the law's adoption. According to a UNHCR press release, 'the adoption of this law is the result of months of collaborative work associating national institutions, the parliament, traditional and religious authorities, national and international organisations including UNHCR, with the support of the mandate of the UN Special Rapporteur on the human rights of IDPs'.[3] A Protection Cluster report similarly highlights 'the relevance of a multi-stakeholder, participatory process: rounds of consultations were carried out during the period in which the draft law was developed with key governmental and non-governmental stakeholders, including first and foremost internally displaced people' (Protection Cluster, 2021, p. 11). It also points to the role of technical support provided by national experts, the ICRC and UN agencies (Protection Cluster, 2021, p. 11).

The Ministry of Humanitarian Action and Disaster Management's National Coordination Committee is responsible for coordinating responses to all IDP situations. However, it may not yet have sufficient 'authority and power to enforce its mandate' (Weerasinghe, 2021, p. 143).

Lessons on implementing successful IDP policy in Niger include:

- There is a complex set of climatic and conflict-based drivers of displacement in Niger. It is argued that 'robust, holistic analyses of the multiplicity of drivers and triggers and their interactions are necessary to identify long-term actions to prevent, mitigate and solve internal displacement' (Weerasinghe, 2021, p. 139).

- It has been suggested that the concept of IDP is new in Niger and key stakeholders in the implementation of IDP law may not be aware of it. 'People displaced in the context of

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[3] https://reliefweb.int/report/niger/niger-becomes-first-country-africa-adopt-national-law-protection-and-assistance

floods are not necessarily perceived as IDPs unless they have also been displaced by conflict' (Weerasinghe, 2021, p. 139)

- It is more difficult to access IDP populations in remote areas and border regions (Weerasinghe, 2021).

South Sudan

South Sudan adopted a National Framework on Return, Resettlement and Reintegration in 2017 (Beyani et al., 2020; Acharya, 2021). While the framework is not as comprehensive as Kampala, it is nevertheless seen as a positive development. For example, 'the draft law adapts international protection benchmarks to suit local conditions; for example, it establishes special protection measures to safeguard housing, land and property rights for women and children' (Beyani et al., 2020, p. 3).

Beyani (2020) explains its implementation with the participation of multiple stakeholders, including IDPs, members of government, and foreign NGOs. He points to the role of a 'validation' event 'validation' event for government officials to affirm the importance of the process; this was important in order to cultivate political will around the legislation' (Beyani et al., 2020, p. 2). In addition, 'the participation of line ministries both at technical and ministerial levels enabled an exchange on practical issues on coordination of protection and assistance to IDPs that in turn supported the development of the institutional arrangements as framed in the national law" (Beyani et al., 2020, p. 2). The process included a countrywide IDP consultation. However, it has been difficult to achieve this in conflict-affected areas (Beyani, 2020).

Colombia

Colombia has witnessed significant displacement due to conflict, even after the 2016 peace agreement. It has also seen displacement caused by natural disasters, as well as 'double displacement' whereby a displaced population is forced to move again following more violence or a disaster. Most Colombian IDPs are located in urban areas. In 2019, there were millions of IDPs, including many who had been displaced for years.

Colombia's IDP frameworks predate the Guiding Principles. Law 387 on Internal Displacement of 1997 'includes provisions on the prevention of forced displacement and on assistance, protection, return and socioeconomic consolidation and stabilisation of IDPs in Colombia' (Weerasinghe, 2021, p. 114). In 2011, Law 1448 made provisions for transitional justice for those affected by conflict, including IDPs. Policies include quantifiable targets (Kalin and Chapuisat, 2017).

The Constitutional Court has been shown to have a key role in 'clarifying obligations, rights and standards and in promoting implementation of the IDP Law and the Victims Law' (Weerasinghe, 2021). In addition, an ombudsperson with a subunit on human mobility can also address compliance issues, although it has been found to be less effective in areas with armed groups or remote areas (see also UNHCR, 2022, p. 23; Weerasinghe, 2021). "In many cases, judicial protection has become the most effective way to protect the displaced population's rights" (Celis, 2009, p. 112). Courts provide individual protection, as well as judicial action on 'structural problems' in the state's response (Celis, 2009).

In 2004, Colombia's Constitutional Court issued a decision that the government was not fulfilling its duties under the 1997 law, to the extent that it was violating the fundamental rights of citizens (Decision T-025/04). The Court has continued to press for compliance with the judgement (Weerasinghe, 2021, p. 116). The Court has continued to issue orders on IDP related issues to make sure all IDPs are included in policies and to ensure consistency between policies, including by using the Guiding Principles. For example, in 2013, it issued an order that 'provides that populations displaced by generalised violence, including at the hands of groups that may not be regarded as armed actors for the purposes of the Victims Law, should nonetheless be included in the Single Registry of Victims' (Weerasinghe, 2021, p. 116).

Visibility is a critical variable in the implementation of IDP assistance. Information from key informants suggests that 'the visibility of an emergency influences the efficacy of responses.' They suggest that conflict-induced displacement is generally more visible because of the legal architecture to address it as well as civil society interests. Displacement in rural, underdeveloped and abandoned areas generates less public engagement (Weerasinghe, 2021).

General 'challenges in implementing the Victim's Law and the disaster risk management (DRM) Law include technical, financial and staffing capacity at the national, departmental and municipal levels, as well as political transitions, political priorities, political will, staffing changes, accountability and enforcement' (Weerasinghe, 2021, p. 124). There is variation in response between different regions due to resource constraints (Weerasinghe, 2021).

Colombia has

> separate national systems, frameworks and institutional structures to support people displaced by conflict and violence and people affected by disaster. Each system establishes high-level decision-making bodies and national institutions with implementation and coordination responsibilities. Departmental, district and municipal governors and mayors also have responsibilities, including in relation to planning and coordination. Each system has different capacities, budgets, infrastructures and early warning mechanisms, and is charged with undertaking a comprehensive response (Weerasinghe, 2021).

The architecture for victims of violence, including IDPs, is based on notions of rights and justice, whereas frameworks for disasters are more focused on humanitarian relief (Weerasinghe, 2021).

Afghanistan

Afghanistan has developed several IDP instruments since 2013 (Weerasinghe, 2021, pp. 82–100). However, assessments point to the limited implementation of these measures (Majidi & Tyler, 2018; Orchard, 2018; Sandri, 2018). A 2017 study by Welthungerhilfe found that the 2014 National Policy on Internally Displaced Persons 'has suffered from slow implementation, uneven government commitment and institutional understanding, and a limited capacity to operationalise' (Sandri, 2018, p. 5). The policies focus on assistance, protection and durable solutions. Presidential Decree 305 includes provisions on land for IDPs.

In practice, IDPs still face many problems. IDPs still struggle to access services without documentation. Durable solutions are often focused on return rather than integration or relocation, and sometimes returns are pushed before security problems have been resolved. In many places, services are insufficient and IDPs do not trust government to be able to deliver equitably (Sandri, 2018).

This is due to a number of weaknesses in the planning and implementation of the policy. They include:

- That 'government officials do not always know the Policy in detail or understand their role in implementing it' (Sandri, 2018, p. 5). This is particularly the case at provincial level. In addition to a lack of awareness, competing political priorities and the high turnover of officials hinder implementation. The report argues that Afghanistan needs better implementation plans outlining roles and responsibilities at provincial level in particular.
- There is no monitoring system in place, despite being part of the policy.
- 'The implementation modalities failed to reflect properly the complexity of the Afghan context, lacking efficient and effective instruments, and a proper budget to make it operational' (Sandri, 2018, p. 6).

The Welthungerhilfe study, therefore, suggests that the policy be adjusted in line with lessons learnt, including more dialogue between IDPs, hosts and government; more context-specific plans; more awareness-raising among IDPs and government officials; capacity building and that 'line ministries should edit terms of reference of relevant staff at the national and provincial levels to reflect their responsibilities in contributing to the implementation of the Policy' (Sandri, 2018, p. 32).

Reasons for the limited implementation include a lack of political will, changing government and civil service personnel, and institutional weaknesses and lack of resources and capacity (Majidi & Tyler, 2018). Orchard (2018) also highlights that the 'most critical' reason for problems with implementation was the Taliban insurgency.

Lessons on the role of international actors include:

- The policy was seen as 'imposed by the international community' because of a lack of Afghan stakeholders. Although some IDP representatives were involved, few civil society organisations were present (Majidi and Tyler, 2018, p. 34)
- The support offered was mainly short-term oriented. It was focused on policy drafting and did little to help integrate the complexities of the policies into national and sub-national plans (Majidi and Tyler, 2018, p. 34).

3. General lessons

State capacity and technical support

It is widely agreed that 'successful implementation is linked to strong state capacity' (Orchard, 2018, p. 159). States may agree on laws and frameworks, but they need to 'contain provisions for adequate means (institutional/mandate, human resources, budget)' ("Translating the Kampala Convention into practice: A stocktaking exercise", 2017, p. 382).

Many discussions on developing IDP policy focus on the provision of technical support. This can be given by other states, regional organisations, non-governmental organisations (NGOs), UN bodies, or experts. Capacity can be developed with the help of foreign aid – 'Liberia was able to build up its capacity in close cooperation with international aid agencies and support

an effective return effort. Sierra Leone similarly led an effective return strategy with the assistance of peacekeepers in the country' (Orchard, 2018, p. 159).

In Africa, the African Union has had a large role in encouraging the adoption of the Kampala Convention. For instance, the African Union Commission developed a Model Law to help states develop IDP policy (Adeola, 2021; 'Translating the Kampala Convention into Practice', 2017). International organisations such as the IDMC and UNHCR provide training for officials. The Global Protection Cluster established a Task Team on Law and Policy (TTLP) in 2015 to coordinate policymaking efforts and strengthen the capacity of states (Giorgi, 2016, p. 19; 'Translating the Kampala Convention into Practice', 2017). The ICRC has an Advisory Service that helps states ('Translating the Kampala Convention into Practice', 2017).

Participation of stakeholders

While technical support is helpful, many reports emphasise the importance of a participatory process. The ICRC states that 'no support from other actors can substitute for the State's political will, and no longer-term response enabling durable solutions can happen without national leadership and a "whole-of-government" and "whole-of-society" approach' (ICRC, 2019, p. 32). It is widely agreed that it is important to build relationships with public officials, local government and civil society actors, as well as IDPs and host communities (Oputu, 2022). According to Ferris, 'evidence suggests that national policies will be more effective in supporting solutions when: IDP agency and participation are valued and incorporated from the outset and when all relevant parts of government are involved – from municipal to national, from line ministries to executive leadership – and when there is coordinated international support. In most cases, local or subnational governments are most impacted by displacement and are the most important actors in supporting solutions for IDPs, even though they rarely receive sufficient resources from national governments' (Ferris, 2020, p. 7; Ferreira et al., 2020; Kuzemska, 2020).

It is agreed that the voice of IDPs is needed. However, many states 'experience difficulties in establishing and maintaining the required level of dialogue with internally displaced communities' ('Translating the Kampala Convention into Practice', 2017, p. 398). It is often harder to involve groups from outside the capital in the development and implementation of IDP frameworks ('Translating the Kampala Convention into Practice', 2017).

Weerasinghe argues that the 'visibility' of an IDP problem is a factor likely to affect the will of political actors to solve it (Weerasinghe, 2021, p. 47). Visibility can be generated by media coverage, public attention and expressions of public solidarity. It may pressure governments to act, but the lack of visibility may lead to the neglect of some crises (Weerasinghe, 2021, p. 47).

Institutional arrangements and domestic actors

One important issue is the coordination between IDP frameworks and disaster risk management, as internal displacement can be caused by disasters (Weerasinghe, 2021). Many states have separate instruments and responsibilities for both, meaning the harmonisation of frameworks and cross-sectoral coordination are needed (Weerasinghe, 2021, p. 67). Weerasinghe (2021), therefore, surveys the inter-ministerial or multi-stakeholder coordination mechanisms in several countries (pp. 59-54).

Celis (2009) shows **that judicial action has been one of the most effective forms of IDP protection in Colombia**. He suggests that it can provide individual protection but is more effective when highlighting structural flaws in state frameworks and responses (Celis, 2009). The Constitutional Court has passed several judgements highlighting the government's failure to uphold its obligations to IDPs, as have ombudspersons and human rights institutions (Weerasinghe, 2021, p. 47).

A recent article charts the efforts of human rights NGOs in Mexico and El Salvador to create 'political will' to help IDPs (Magalhaes et al., 2020). They argue that the work of these NGOs brought recognition and prioritisation of the problem. Neither of the two governments acknowledged problems of internal displacement, likely because it represents a failure to keep the population safe (Magalhaes et al., 2020). Human rights organisations provided the most systematic data available, which was quoted widely by charities, government departments, academics and the media. They also used advocacy and strategic litigation to push for recognition and responses from government (Magalhaes et al., 2020). In Mexico, the National Human Rights Commission (CNDH) has produced studies, educational materials and lobbied for IDP rights, and contributed to a draft law on IDPs (UNHCR, 2022, p. 47).

A recent publication, *Protecting internally displaced persons: a Handbook for National Human Rights Institutions* (UNHCR, 2022), outlines the roles of National human rights institutions (NHRIs) according to international law and IDP frameworks, and examples of effective action. NHRIs are constitutional or statutory bodies accredited by the Sub-committee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI).[4] Independence from government and presence among IDPs can help them win trust and engage IDPs with authorities. Their monitoring, advocacy and education functions can help to promote IDP issues, develop good practices and work towards the implementation of laws and policies. They can have several roles in the implementation and monitoring of IDP protection and support (UNHCR, 2022, p. 22):

- monitoring IDPs' conditions to ensure that IDPs enjoy the same rights as others in the country, that they do not face discrimination in seeking access to their rights, and that they receive the protection and assistance they require;
- conducting inquiries into reports of serious violations of IDPs' human rights, including individual complaints by IDPs, and working to ensure that authorities respond effectively;
- following up on early warnings of displacement and ensuring that authorities take the necessary actions to prevent displacement;
- advising the government on the development of national laws and policies to ensure that IDPs' rights are protected;
- monitoring and reporting on the government's implementation of national laws and policies regarding internal displacement;
- undertaking educational activities and training programmes, especially for government officials, including military and law enforcement agents, as well as IDPs, on the rights of IDPs;

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[4] https://ennhri.org/about-nhris/un-paris-principles-and-accreditation/

- ensuring that IDPs are informed and consulted in the development of government initiatives on their behalf;
- establishing a monitoring presence in areas where the physical security of IDPs and other civilians is at grave risk, and monitoring the return and resettlement of IDPs to ensure that it is voluntary and occurs in safe conditions.

NHRIs can also contribute to the development of legislation and policy. The roles they can take include to (UNHCR, 2022, p. 45):

- review any legislation and administrative provisions in force, as well as bills and proposals, and make recommendations to ensure that they conform with relevant international human rights principles and standards, including the Guiding Principles on Internal Displacement and the Kampala Convention/ Great Lakes Protocol on Protection and Assistance to Internally Displaced Persons, where relevant;
- advise on the ratification and/or domestication of relevant international or regional instruments, particularly the Kampala Convention, and promote its domestication and implementation;
- recommend the adoption of new legislation, the amendment of existing legislation and the adoption or the amendment of administrative measures at local and national levels to prevent, protect and support durable solutions for IDPs in line with international and regional norms and standards;
- advise on the development of human rights-based strategies, action plans and other measures to prevent and address internal displacement;
- facilitate the engagement of relevant stakeholders, including IDPs themselves, in law- and policymaking processes relevant to internal displacement (for example, by conducting consultations and acting as a platform or bridge between civil society and the Government);
- build the capacity of relevant stakeholders, including affected communities, and engage in advocacy (in collaboration with CSOs and IDPs themselves) to promote the development of national laws and policies on internal displacement based on relevant standards, as well as their implementation;
- monitor the effective implementation at the national level of relevant frameworks on internal displacement or frameworks relevant to the protection of IDPs and related outcomes from UN or regional human rights bodies and mechanisms.

International actors

International actors have helped in the dissemination and drafting of laws and frameworks. Regional workshops have helped disseminate expertise on implementing the Kampala Convention. They have allowed the exchange of best practices, allowed constructive engagement, and kept the momentum towards ratification/accession (ICRC, 2019, p. 33). Such workshops have allowed states to benefit from the coordinated support of actors such as UNHCR and ICRC, and regional bodies such as IGAD and ECOWAS (ICRC, 2019, p. 33). The ICRC cites South Sudan's attendance at the 2016 ICRC-IGAD seminar as a trigger to ask the ICRC for support in developing its IDP frameworks (ICRC, 2019, p. 33). The AU, ECOWAS and

IGAD have also been cited as a factor in the adoption of the Kampala Convention and in monitoring (Adeola, 2021; Giorgi, 2016).

Bilateral dialogue can provide more focused support than summits and conferences. It can 'draw attention to specific needs and protection concerns, provide contextualised concrete recommendations on how responses could be improved, and provide support through legal and technical guidance' (Oputu, 2022).

However, the efforts of international actors have not made a significant difference beyond helping to draft laws and policies (Orchard, 2018). For example, the Norwegian Refugee Council (NRC) and United Nations High Commissioner for Refugees (UNHCR) were involved in drafting 33 laws and policies, but only 13 have been 'robustly implemented' (Orchard, 2018).

International actors seeking to encourage ratification and implementation of conventions should carefully consider the interests and capabilities of states. Oputu notes that 'dialogue at the national level on internal displacement tends to be sensitive and politically contentious', particularly when talking about conflict-induced displacement. Some states 'are reluctant to admit to internal displacement, conflating this with an admission of armed conflict or violence that could harm the image of the government. Internal displacement issues are often swept under the rug, with IDPs treated in the same manner as other habitual residents without consideration of their specific needs. Some governments do not regard IDPs as citizens in need of protection and might even consider them to be foreigners, migrants or 'the enemy', their hardships illegitimate' (Oputu, 2022). Diplomacy needs to 'distinguish between will and capacity' Those seeking to influence states should be aware that a government's 'political calculus would therefore be to shy away from prioritising a problem when there are no means or resources with which to address it. The incentive to adopt appropriate policies and laws to frame action can be considered meaningless where means are lacking' (Oputu, 2022). In addition, more focus should be put on development rather than humanitarian issues to better connect with the needs and aims of African governments, particularly when developing durable solutions (Ferreira & al, 2020; Oputu, 2022).

Timing and strategy

In developing policy, it is important to get different branches of government on board. As part of this, 'it may well be possible to take advantage of rivalry between the different arms and strategically use it to bolster advocacy' ("Behind the scenes: lessons Learnt from Developing a National Policy Framework on Internal Displacement in Kenya", 2013, p. 22).

It is important to frame the problem as requiring intervention and be sensitive to the reputational concerns of states. In many situations of internal displacement, the government may face reputational risks in acknowledging a problem. In Kenya, members of a Protection Cluster working group, 'remained attuned to the sensitivity of internal displacement and set out to develop a narrative of internal displacement as a human rights violation warranting a national response" ("Behind the scenes: lessons Learnt from Developing a National Policy Framework on Internal Displacement in Kenya", 2013, p. 22)

Timing is also essential. In Kenya, the 2007-8 post-election violence and displacement meant there was the political will to address the problem in the aftermath ("Behind the scenes: lessons

Learnt from Developing a National Policy Framework on Internal Displacement in Kenya", 2013, p. 23).

Contextual information

Internal displacement can be caused by several factors, including disasters and conflict. Responses will vary from humanitarian aid, to legal remedies, to the return of land and economic development programmes. A granular understanding of the causes of displacement and specific conflict- or disaster-related vulnerabilities is needed for the successful implementation of protection and support (Ferris, 2011; Weerasinghe, 2021; "Behind the scenes: lessons Learnt from Developing a National Policy Framework on Internal Displacement in Kenya", 2013, p. 22).

In some cases, regions may develop their own policy separately from the state. Chiapas and Guerrero states in Mexico and Puntland and Somaliland in Somalia have done so, the latter reflecting 'the fragmented institutional reality' of the country (Giorgi, 2016, p. 23).

IDP policy relies on generating good data. This is often undertaken by international organisations, but input from national governments can help to avoid suspicion of the figures (JIPS, 2020; Oputu, 2022). IDP frameworks need monitoring for unintended consequences and shortfalls (Giorgi, 2016, p. 16).

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Key websites

- Global Protection Cluster, global database on IDP laws and policies: https://www.globalprotectioncluster.org/global-database-on-idp-laws-and-policies/

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Suggested citation

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